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# **Carnegie Endowment for International Peace**

**DIVISION OF INTERNATIONAL LAW**

## **DOCUMENTS RELATING TO THE CONTRO- VERSY OVER NEUTRAL RIGHTS BETWEEN THE UNITED STATES AND FRANCE, 1797-1800**

**PUBLISHED BY THE ENDOWMENT  
WASHINGTON, D. C.**

**1917**



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## Prefatory Note

In President Wilson's address before the Congress on February 26, 1917, he said that

we must defend our commerce and the lives of our people in the midst of the present trying circumstances, with discretion but with clear and steadfast purpose. Only the method and the extent remain to be chosen upon the occasion, if occasion should indeed arise. Since it has unhappily proved impossible to safeguard our neutral rights by diplomatic means against the unwarranted infringements they are suffering at the hands of Germany, there may be no recourse but to *armed* neutrality, which we shall know how to maintain and for which there is abundant American precedent.

In view of the statements contained in the President's address setting forth the difficulties of the Government of the United States concerning its maritime commerce, it has been thought both interesting and timely to collect and to publish the accompanying documents relating to the maritime controversy with France during the presidency of John Adams. The present pamphlet, the first of a series, contains pertinent extracts from President Adams' messages, the respective replies of the Senate and the House, the laws enacted by Congress to meet the situation, and the proclamations issued by the President. By way of introduction, there is prefixed an extract from the learned note of J. C. Bancroft Davis' *Treaties and Conventions between the United States and other Powers (1776-1887)*, which gives in summary form the history of the controversy, and there is appended the convention of September 30, 1800, between the United States and France, negotiated during this controversy and which brought it to an end.

JAMES BROWN SCOTT,  
Director of the Division of International Law.

Washington, D. C., February 28, 1917.



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NOTE.—Many of the above citations are not those in general use, but as they are reproductions from older publications, it has not been deemed wise to change them to conform to modern practice.



**DOCUMENTS RELATING TO THE CONTROVERSY OVER NEUTRAL  
RIGHTS BETWEEN THE UNITED STATES AND FRANCE, 1797-1800.**

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**Extract from Notes to Treaties and Conventions, 1889, relating to  
the United States and France<sup>1</sup>**

On the 25th of January, 1782, the Continental Congress passed an act authorizing and directing Dr. Franklin to conclude a Consular Convention with France on the basis of a scheme which was submitted to that body. Dr. Franklin concluded a very different convention, which Jay, the Secretary for Foreign Affairs, and Congress did not approve.<sup>2</sup> Franklin having returned to America, the negotiations then fell upon Jefferson, who concluded the Convention of 1788. This was laid before the Senate by President Washington on the 11th of June, 1789.

On the 21st of July it was ordered that the Secretary of Foreign Affairs attend the Senate to-morrow and bring with him such papers as are requisite to give full information relative to the Consular Convention between France and the United States.<sup>3</sup> Jay was the Secretary thus "ordered." He was holding over, as the new Department was not then created. The Bill to establish a Department of Foreign Affairs had received the assent of both Houses the previous day,<sup>4</sup> but had not yet been approved by the President.<sup>5</sup> Jay appeared, as directed, and made the necessary explanations.<sup>6</sup> The Senate then Resolved that the Secretary of Foreign Affairs under the former Congress be requested to peruse the said Convention, and to give his opinion how far he conceives the faith of the United States to be engaged, either by former

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<sup>1</sup>Treaties and Conventions, 1889.

<sup>2</sup>1 D. C., 1783-89, 232.

<sup>3</sup>Annals 1st Sess. 1st Cong., 52.

<sup>4</sup>Ib., 685.

<sup>5</sup>Ib., 52.

<sup>6</sup>Ib.,

NOTE.—The footnotes in this section are reproduced exactly as they appear in the original document excepting necessary changes in exponents.



agreed stipulations or negotiations entered into by our Minister at the Court of Versailles, to ratify in its present sense or form the Convention now referred to the Senate.<sup>1</sup> Jay made a written report on the 27th of July that in his judgment the United States ought to ratify the Convention;<sup>2</sup> and the Senate gave its unanimous consent.<sup>3</sup> The Statute to carry the Convention into effect was passed the 14th of April, 1792.<sup>4</sup>

Three articles in the treaties with France concluded before the Constitution became the cause of difference between the two Powers:

1. Article XI of the Treaty of Alliance, by which the United States, for a reciprocal consideration, agreed to guarantee to the King of France his possessions in America, as well present as those which might be acquired by the Treaty of Peace.

2. Article XVII of the Treaty of Amity and Commerce, providing that each party might take into the ports of the other its prizes in time of war, and that they should be permitted to depart without molestation; and that neither should give shelter or refuge to vessels which had made prizes of the other unless forced in by stress of weather, in which case they should be required to depart as soon as possible.

3. Article XXII of the same Treaty, that foreign privateers, the enemies of one party, should not be allowed in the ports of the other to fit their ships or to exchange or sell their captures, or to purchase provisions except in sufficient quantities to take them to the next port of their own State.

Jefferson, who was the Minister of the United States at the Court of Versailles when the Constitution went into operation, was appointed Secretary of State by President Washington on the 26th of September, 1789. He accepted the appointment and presented Short to Neckar as chargé d'affaires of the United States.<sup>5</sup>

Gouverneur Morris, of New York, who had been in Europe from the dawn of the French revolution, and had been in regular friendly correspondence with Washington,<sup>6</sup> was appointed Minister to France on the 12th of January, 1792. At the time of the appointment Wash-

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<sup>1</sup>Annals 1st Sess. 1st Cong., 52.

<sup>2</sup>Ib., 54.

<sup>3</sup>Ib.

<sup>4</sup>1 St. at L., 254.

<sup>5</sup>3 Jefferson's Works, 119.

<sup>6</sup>1 F. R. F., 379-399.

ington wrote him a friendly and admonitory letter: "The official communications from the Secretary of State accompanying this letter will convey to you the evidence of my nomination and appointment of you to be Minister Plenipotentiary of the United States at the Court of France; and my assurance that both were made with *all my heart* will, I am persuaded, satisfy you as to that fact. I wish I could add that the advice and consent flowed from a similar source. \* \* \* Not to go further into detail I will place the ideas of your political adversaries in the light in which their arguments have presented them to me, namely, that the promptitude with which your lively and brilliant imagination is displayed allows too little time for deliberation and correction, and is the primary cause of those sallies which too often offend, and of that ridicule of character which begets enmity not easy to be forgotten, but which might easily be avoided if it was under the control of more caution and prudence. In a word, that it is indispensably necessary that more circumspection should be observed by our representatives abroad than they conceive you are inclined to adopt. In this statement you have the *pros* and *cons*. By reciting them I give you a proof of my friendship if I give you none of my policy or judgment."<sup>1</sup>

Morris entered upon the duties of his office with these wise cautions in his hand, but he did not succeed in gaining the good-will of a succession of governments with which he had little sympathy:<sup>2</sup> for he writes Jefferson on the 13th of February, 1793: "Some of the leaders here who are in the diplomatic committee hate me cordially, though it would puzzle them to say why."<sup>3</sup>

When Morris was appointed Minister, the commercial relations between the two countries were satisfactory to neither. Exceptional favors to the commerce of the United States, granted by royal decree in 1787 and 1788,<sup>4</sup> had been withdrawn, and a jealousy was expressed in France in consequence of the Act of Congress putting British and French commerce on the same basis in American ports.<sup>5</sup> No exceptional advantages had come to France from the war of the revolution, and American commerce had reverted to its old British channels.

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<sup>1</sup>10 Washington's Writings, 216-18.

<sup>2</sup>1 F. R. F., 412.

<sup>3</sup>Ib., 350.

<sup>4</sup>Ib., 113, 116.

<sup>5</sup>See Short's correspondence, Ib., 120.

Jefferson greatly desired to conclude a convention with France which should restore the favors which American commerce had lost, and bring the two countries into closer connection. On the 10th of March, 1792, he instructs Morris: "We had expected, ere this, that in consequence of the recommendation of their predecessors, some overtures would have been made to us on the subject of a Treaty of commerce. \* Perhaps they expect that we should declare our readiness to meet on the ground of Treaty. If they do, we have no hesitation to declare it."<sup>1</sup> Again, on the 28th of April, he writes: "It will be impossible to defer longer than the next session of Congress some counter regulations for the protection of our navigation and commerce. I must entreat you, therefore, to avail yourself of every occasion of friendly remonstrance on this subject. If they wish an equal and cordial treaty with us, we are ready to enter into it. We would wish that this could be the scene of negotiation."<sup>2</sup> Again, on the 16th of June, he writes: "That treaty may be long on the anvil; in the mean time we cannot consent to the late innovations without taking measures to do justice to our own navigation."<sup>3</sup>

The great revolution of the 10th of August, and the imprisonment of the King, were duly reported by Morris;<sup>4</sup> and Jefferson replied on the 7th of November: "It accords with our principles to acknowledge any government to be rightful which is formed by the will of the nation substantially declared. \* \* There are some matters which I conceive might be transacted with a government *de facto*; such, for instance, as the reforming the unfriendly restrictions on our commerce and navigation."<sup>5</sup>

To these instructions, Morris answered on the 13th of February, 1793, three weeks after the execution of the King, and a fortnight after the declaration of war against England: "You had \* instructed me to endeavor to transfer the negotiation for a new treaty to America, and if the revolution of the 10th of August had not taken place, \* I should, perhaps, have obtained what you wished. \* \* \* The thing you wished for is done, and you can treat in America if

<sup>1</sup> Jefferson's Works, 338-9.

<sup>2</sup> *Ib.*, 356.

<sup>3</sup> *Ib.*, 449.

<sup>4</sup> F. R. F., 333.

<sup>5</sup> Jefferson's Works, 489.

you please."<sup>1</sup> In the same dispatch, Morris spoke of the "sending out of M. Genet, without mentioning to me a syllable either of his mission or his errand," and said that "the pompousness of this embassy could not but excite the attention of England."<sup>2</sup>

On the 7th of March, Morris wrote to Jefferson that "Genet took out with him three hundred blank commissions, which he is to distribute to such as will fit out cruisers in our ports to prey on the British commerce," and that he had already mentioned the fact to Pinckney, and had desired him to transmit it.<sup>3</sup>

The new condition of affairs caused by the war induced the President to submit a series of questions to the members of his cabinet for their consideration and reply.<sup>4</sup> It would seem from a passage in Mr. Jefferson's *Ana* that the second of these questions—"Shall a Minister from France be received?" was suggested by the Secretary of State.<sup>5</sup> An account of the meeting of the cabinet at which these questions were discussed will be found in vol. 9 Jefferson's Works, page 142.

The first two questions were unanimously answered in the affirmative—that a proclamation for the purpose of preventing citizens of the United States from interfering in the war between France and Great Britain should issue, and that Genet should be received; but by a compromise, the term "neutrality" was omitted from the text of the proclamation.<sup>6</sup>

When Genet landed in Charleston, on the 8th of April, 1793—even when he arrived in Philadelphia—it may be believed that Washington contemplated the probability of closer relations with France, and the possibility of a war with Great Britain. The relations with the latter Power were in a critical condition. British garrisons were occupying commanding positions on our lake frontiers, within the territory of the United States, in violation of the Treaty of 1783; and an Indian quarrel was on the President's hands, fomented, as he thought, by British intrigue.<sup>7</sup>

The policy which Washington favored, denied France nothing that she could justly demand under the Treaty, except the possible enforce-

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<sup>1</sup> 1 F. R. F., 350.

<sup>2</sup> *Ib.*

<sup>3</sup> 1 F. R. F., 354.

<sup>4</sup> 10 Washington's Works, 337, 533.

<sup>5</sup> 9 Jefferson's Works, 140.

<sup>6</sup> 3 Jefferson's Works, 591.

<sup>7</sup> 10 Washington's Works, 239. See also Morris's opinion, 1 F. R. F., 412, and Randolph's, *ib.*, 678.

ment of the provision of guarantee; and that provision was waived by Genet in his first interview with Jefferson. "We know," he said, "that under present circumstances we have a right to call upon you for the guarantee of our islands. But we do not desire it."<sup>1</sup>

On the other hand, it offered to Great Britain neutrality only, without a right of asylum for prizes, this being conferred exclusively by Treaty upon France; and it demanded the relinquishment of the Forts on the lakes and the abandonment of impressment.

It is not likely that the purposes of Genet's mission were fully comprehended by the American Government. By a Treaty in 1762 (first made public in 1836),<sup>2</sup> France ceded Louisiana to Spain. Genet was instructed to sound the disposition of the inhabitants of Louisiana towards the French Republic, and to omit no opportunity to profit by it should circumstances seem favorable. He was also to direct particular attention to the designs of the Americans upon the Mississippi.<sup>3</sup>

In one of his letters Genet says of himself, "I have been seven years a head of the bureau at Versailles, under the direction of Vergennes; I have passed one year at London, two at Vienna, one at Berlin, and five in Russia."<sup>4</sup> His dealings with the United States showed that he had gathered little wisdom from such varied experience.

Before he left Charleston, which at that time had few regular means of communication with Philadelphia, he had armed and commissioned several vessels, and these vessels, dispatched to sea, had made many prizes.<sup>5</sup> On his arrival at Philadelphia, Jefferson met him with complaints; but he justified his course at Charleston and denounced an interference with it as a "State Inquisition";<sup>6</sup> and, admitting what was complained of, he contended that he had not exceeded the rights conferred upon his country by the Treaty of 1778.

The Secretary of State disputed his reasoning; upon which he retorted: "I wish, Sir, that the Federal Government should observe, as far as in their power, the public engagements contracted by both nations; and that by this generous and prudent conduct, they will give at least to the world the example of a true neutrality, which does not consist in the cowardly abandonment of their friends, in the moment

<sup>1</sup>3 Jefferson's Works, 563.

<sup>2</sup>6 Gardin, *Traité de Paix*, 266.

<sup>3</sup>8 Gardin, *Traité de Paix*, 40-41.

<sup>4</sup>1 F. R. F., 183.

<sup>5</sup>Ib., 150.

<sup>6</sup>Ib.

when danger menaces them, but in adhering strictly, if they can do no better, to the obligations they have contracted with them."<sup>1</sup> He continued to claim and exercise the right of using the ports of the United States as a base for warlike operations, and, as the discussions went on, his expressions became stronger, and more contemptuous toward the President and the Government of the United States.

His instructions contemplated a political alliance between the two republics.<sup>2</sup> This was never proposed. He did propose, however, the re-arrangement of the debt due to France on the basis of the payment of a larger installment than was required by the contract, to be expended in the purchase of provisions in the United States:—and the conclusion of a new commercial Treaty. Jefferson declined the former, and as to the latter said that the participation in matters of Treaty given by the Constitution to the Senate would delay any definite answer.<sup>3</sup>

At length his conduct became so violent and indecent (Garden speaks of Washington as "*personnellement insulté dans les actes diplomatiques de M. Genet*")<sup>4</sup> that Jefferson, on the 15th of August, 1793, instructed Morris to demand his recall. One of the first acts of his successor was to demand his arrest for punishment, which was refused by the Government of the United States "upon reasons of law and magnanimity."<sup>5</sup>

It was several months before the request for his recall could be complied with. Meanwhile, the United States being without a navy, prizes continued to be brought into their ports, and French Consuls attempted to hold prize courts within their jurisdiction.<sup>6</sup> Genet also applied himself diligently at this time to the greater scheme respecting the Louisianas, which Garden regards as the main object of his mission. An armed expedition was organized in South Carolina and Georgia for an attack upon Florida.<sup>7</sup> Garden says that he had assurances that all Louisiana desired to return under the jurisdiction of France, and he made serious preparations for conquering it. He prepared a co-operation of naval forces, which were to appear off the coast of Florida.

<sup>1</sup> F. R. F., 151.

<sup>2</sup> *Ib.*, 708.

<sup>3</sup> *Ib.*, 568.

<sup>4</sup> Garden, *Traité de Paix*, 43, "personally insulted by the acts of Mr. Genet."

<sup>5</sup> F. R. F., 709.

<sup>6</sup> *Ib.*, 147.

<sup>7</sup> *Ib.*, 309, 426.

The principal land forces were to embark from Kentucky, and, descending the Ohio and the Mississippi, were to fall unexpectedly upon New Orleans."<sup>1</sup> The action of the Government and the recall of Genet put a stop to these expeditions against Spain, although Jefferson at that time thought a war with Spain inevitable.<sup>2</sup>

In retaliation the Executive Provisory Council of the French Republic demanded the recall of Morris.<sup>3</sup> In communicating the fact to him Secretary Randolph said: "You have been assailed, however, from another quarter. Nothing has ever been said to any officer of our Government by the Ministers of France which required attention until the 9th day of April last, when Mr. Fauchet communicated to me a part of his instructions, indirectly but plainly making a wish for your recall. In a few days afterwards a letter was received from the Executive Provisory Council, expressive of the same wish. Mr. Fauchet was answered by me, under the direction of the President, as I am sure your good sense will think inevitable, that the act of reciprocity demanded should be performed."<sup>4</sup>

Washington wrote Morris, when his successor went out: "I have so far departed from my determination as to be seated in order to assure you that my confidence in, and friendship and regard for you, remain undiminished \* \* and it will be nothing new to assure you that I am always and very sincerely, yours, affectionately;"<sup>5</sup> and when his correspondence was called for by the Senate, Washington himself, in association with Hamilton and Randolph, went over it (and it was voluminous) in order that nothing might be communicated which would put in peril those who had given him information, or which would re-act upon him in France.<sup>6</sup>

When the war broke out in February, 1793, Morris wrote Jefferson: "As to the conduct of the war, I believe it to be on the part of the enemy as follows: first, the maritime powers will try to cut off all supplies of provisions, and take France by famine; that is to say, excite revolt among the people by that strong lever. \* \* It is not improbable that our vessels bringing provisions to France may be cap-

<sup>18</sup> Garden, *Traité de Paix*, 42. More detailed account of this affair will be found in 2 Pitkin's *Political History*, 379.

<sup>23</sup> Jefferson's Works, 591.

<sup>31</sup> F. R. F., 463.

<sup>4</sup> Randolph to Morris, April 29, 1794, MS. Dept. of State.

<sup>51</sup> F. R. F., 409.

<sup>6</sup> Randolph to Morris, April 29, 1794, MS. Dept. of State.

tured and taken into England."<sup>1</sup> His prescience was accurate. Such instructions were given to British men-of-war on the 8th day of June, 1793. The British measure, however, was anticipated by a decree of the National Convention of the 9th of May, authorizing ships of war and privateers to seize and carry into the ports of the Republic merchant-vessels which are wholly or in part loaded with provisions, being neutral property bound to an enemy's port, or having on board merchandise belonging to an enemy.<sup>2</sup> On the 23d of the same month the vessels of the United States were exempted from the operation of this decree;<sup>3</sup> but on the 5th of December, 1793, President Washington sent a special message to Congress, in which he said: "The representative and executive bodies of France have manifested generally a friendly attachment to this country; have given advantages to our commerce and navigation, and have made overtures for placing these advantages on permanent ground; a decree, however, of the National Assembly, subjecting vessels laden with provisions to be carried into their ports, and making enemies' goods lawful prize in the vessel of a friend, contrary to our Treaty, though revoked at one time as to the United States, has been since extended to their vessels also, and has been recently stated to us."<sup>4</sup>

An embargo was laid upon vessels in the port of Bordeaux, "some exceptions in favor of those vessels said to be loaded on account of the republic" being made.<sup>5</sup> Morris was promised daily that the embargo should be taken off, and indemnification be granted for the losses,<sup>6</sup> but it was not done, and "a number of Americans," injured by it, complained to the Minister.<sup>7</sup> The embargo was not removed until the 18th of November, 1794.<sup>8</sup>

Monroe succeeded Morris, and on the 12th of February, 1795, wrote: "Upon my arrival here I found our affairs \* \* in the worst possible situation. The Treaty between the two Republics was violated. Our commerce was harassed in every quarter and in every article, even that of tobacco not excepted. \* \* Our former Minister was not only without the confidence of the government, but an object of particular

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<sup>1</sup> F. R. F., 350.

<sup>2</sup> *Ib.*, 244.

<sup>3</sup> *Ib.*

<sup>4</sup> *Ib.*, 141.

<sup>5</sup> *Ib.*, 401.

<sup>6</sup> *Ib.*, 403.

<sup>7</sup> *Ib.*, 405.

<sup>8</sup> *Ib.*, 689.



jealousy and distrust. In addition to which it was suspected that we were about to abandon them for a connection with England, and for which purpose *principally* it was believed that Mr. Jay had been sent there."<sup>1</sup>

Monroe's and Jay's services commenced nearly simultaneously. Monroe's commission was dated the 28th of May, and Jay's the 19th of April, 1794. Jay's Treaty was proclaimed the 29th of February, 1796. Monroe was not recalled until the 22d of the following August,<sup>2</sup> but the angry correspondence which preceded his recall<sup>3</sup> may be said to have been caused by a radical difference of opinion respecting his colleague's mission to London.

Whatever may have been the feeling toward Monroe's predecessor, he himself was well received. The Committee of Public Safety welcomed him "with the most distinguished marks of affection," and offered him a house, which offer he declined.<sup>4</sup> He remained in relations of personal good-will with the different Governments of France, and did not fail to urge in his correspondence with the Secretary of State the policy of settling the differences with Great Britain by an alliance with France:<sup>5</sup> nor did he conceal those opinions from the Government to which he was accredited.<sup>6</sup> While the relations between Great Britain and the United States were balancing themselves in London on the issue of Jay's Treaty, those between the United States and France were held in like suspense in Paris.

Monroe endeavored to obtain from Jay a knowledge of the negotiations and a copy of the Treaty. Jay refused to communicate information, except in confidence, and Monroe declined to receive it unless he should be at liberty to communicate it to the French Government.<sup>7</sup> A copy was, however, officially communicated to the French Minister at Washington.<sup>8</sup> When the fate of that Treaty was ensured, the directory at first resolved (and so informed Monroe) to consider the alliance at an end, but they gave no formal notice to that effect.<sup>9</sup> In

<sup>1</sup>1 F. R. F., 694.

<sup>2</sup>Ib., 741.

<sup>3</sup>Ib., 658-741.

<sup>4</sup>Ib., 675.

<sup>5</sup>See, among others, his letters in 1 F. R. F. of Nov. 20, 1794, 685; Dec. 2, 1794, 687; Jan. 13, 1795, 691; Feb. 12, 1795, 694; and March 17, 1795, 700.

<sup>6</sup>Ib., 700.

<sup>7</sup>Ib., 517, 691, 700.

<sup>8</sup>Ib., 594.

<sup>9</sup>Ib., 730.

lieu of that they lodged with him, on the 11th of March, 1796, a summary exposition of the complaints of the French Government against the Government of the United States, namely, (1.) That the United States Courts took jurisdiction over French Prizes, in violation of the Treaty of 1778. (2.) That British men-of-war were admitted into American ports in violation of the same article. (3.) That the United States had failed to empower any one to enforce consular judgments, which was alleged to be a violation of the Convention of 1788. (4.) That the Captain of the "Cassius" had been arrested in Philadelphia for an offense committed on the high seas. (5.) That an outrage had been committed on the effects of the French Minister within the waters of the United States. (6.) That by Jay's Treaty the number of articles contraband of war, which a neutral might not carry, had been increased above the list specified in the treaties with France, which was a favor to England. (7.) That provisions had been recognized in Jay's Treaty as an article contraband of war.<sup>1</sup>

On the 2d of July, 1796, the directory decreed that all neutral or allied powers should, without delay, be notified that the flag of the French Republic would treat neutral vessels, either as to confiscation, or to searches, or capture, in the same manner as they shall suffer the English to treat them.<sup>2</sup> Garden says that a second decree relating to the same object was made on the 16th of the same month, and that neither decree has been printed. The translation of the first one is printed among the American documents cited above, as also the translation of a note transmitting it to Monroe.<sup>3</sup> Garden refers to Rondonneau, *Répertoire général de la Législation française*, Vol. II, p. 311, for the text of the second.<sup>4</sup>

Pickering, the successor of Randolph, noticed the complaints of the French Government in elaborate instructions to Pinckney, Monroe's successor, on the 16th of January, 1797.<sup>5</sup> His replies were in substance, (1.) That the courts had taken jurisdiction over no prizes, except when they were alleged to have been made in violation of the obligations of the United States as a neutral, and that the cases in which interference had taken place were few in number and insignifi-

<sup>1</sup> F. R. F., 732-3.

<sup>2</sup>Ib., 577.

<sup>3</sup>Ib., 739.

<sup>4</sup>6 Garden, *Traité de Paix*, 112, note.

<sup>5</sup>1 F. R. F., 559.

cant. (2.) That it was no violation of the Treaty with France to admit British ships of war into American ports, provided British privateers and prizes were excluded. (3.) That there was no Treaty obligation upon officers of the United States to enforce French consular judgments, and that the clause referred to was exceptional and ought not to be enlarged by construction. (4.) The facts respecting the "Cassius" were stated in order to show that no offense had been committed. (5.) That the executive had taken as efficacious measures as it could to obtain satisfaction for the outrage upon Fauchet. (6.) That the United States would gladly have put the definition of contraband on the same basis in its Treaties with both countries; but that Great Britain would not consent, and an independent arrangement had been made which did not affect the other Treaty arrangement made with France. (7.) That the stipulation as to provisions, without admitting the principle that provisions were contraband, would tend to promote adventures in that article to France.

A correspondence respecting the same subject had also taken place at Washington, in which the same complaints of the directory were repeated and other complaints were urged.<sup>1</sup> To the latter Pickering responded thus, in the same note in which he noticed the complaints which had been made in Paris: (1.) *Charge*.—That the negotiation at London had been "enveloped from its origin in the shadow of mystery, and covered with the veil of dissimulation."<sup>2</sup> *Reply*.—"To whom was our Government bound to unveil it? To France or to her Minister? \* Did we stipulate to submit the exercise of our sovereignty \* \* to the direction of the Government of France? Let the Treaty itself furnish an answer."<sup>3</sup> (2.) *Charge*.—That the Government of the United States had made an insidious proclamation of neutrality. *Reply*.—That "this proclamation received the pointed approbation of Congress," and "of the great body of the citizens of the United States." (3.) *Charge*.—That the United States "suffered England, by insulting its neutrality, to interrupt its commerce with France." *Reply*.—That a satisfaction had been demanded and obtained in a peaceable manner—by Treaty, and not by war. (4.) *Charge*.—That they "allowed the French colonies to be declared in a state of blockade." *Reply*.—That the United States, as a neutral, could only ques-

<sup>1</sup> F. R. F., 579.

<sup>2</sup>Ib., 581.

<sup>3</sup>Ib., 561.

tion the sufficiency of a blockade, and that they would do so when facts should warrant it. (5.) *Charge*.—That the United States eluded advances for renewing the Treaties of commerce. *Reply*.—That Genet was the first French Minister who had been empowered to treat on those subjects, and the reasons for not treating with him were well known; that his successor, Fauchet, had not been so empowered, and that the United States had always been ready to negotiate with Adet, and all obstacles had come from him since the ratification of Jay's Treaty. (6.) *Charge*.—That the United States were guilty of ingratitude towards France. *Reply*.—That the United States, appreciating their obligations to France, had done something themselves towards the achievement of their independence; that, "of all the loans received from France in the American war, amounting nearly to 53,000,000 livres, the United States under their late Government had been enabled to pay but 2,500,000 livres; that the present Government, after paying up the arrearages and installments mentioned by Mr. Jefferson, had been continually anticipating the subsequent installments until, in the year 1795, the whole of our debt to France was discharged by the payment of 11,500,000 livres, no part of which would have become due until September 2, 1796, and then only 1,500,000, the residue at subsequent periods, the last not until 1802." (7.) *Charge*.—That English vessels were impressing American seamen. *Reply*.—That this concerned the Government of the United States only; and that as an independent nation they are not obliged to account to any other power respecting the measures which they judge proper to take in order to protect their own citizens. Other less important points were discussed, as will be seen by referring to the correspondence.

The course of the French was giving rise to many claims—for spoliations and maltreatment of vessels at sea, for losses by the embargo at Bordeaux, for the non-payment of drafts drawn by the colonial administrations, for the seizure of cargoes of vessels, for non-performance of contracts by government agents, for condemnation of vessels and their cargoes in violation of the provisions of the Treaties of 1778, and for captures under the decree of May 9, 1793. Skipwith, the Consul-General of the United States in France, was directed to examine into and report upon these claims; his report was made on the 20th November, 1795.<sup>1</sup>

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<sup>1</sup> F. R. F., 753-758.

On the 9th of September, 1796, Charles Cotesworth Pinckney was sent out to replace Monroe, with a letter from the Secretary of State, saying: "The claims of the American merchants on the French Republic are of great extent, and they are waiting the issue of them, through the public agents, with much impatience. Mr. Pinckney is particularly charged to look into this business, in which the serious interests, and, in some cases, nearly the whole fortunes of our citizens are involved."<sup>1</sup> But the directory, early in October, 1793, recalled their Minister from the United States.<sup>2</sup> Before Pinckney could arrive in France, they, "in order to strike a mortal blow, at the same moment, to British industry and the profitable trade of Americans in France, promulgated the famous law of the 10th Brumaire, year 5 (31st October, 1796), whereby the importation of manufactured articles, whether of English make or of English commerce, was prohibited both by land and sea throughout the French Republic";<sup>3</sup> and, on his arrival, they informed Monroe that the directory would no longer recognize or receive a Minister Plenipotentiary from the United States, until after a reparation of the grievances demanded of the American Government, and which the French Republic has a right to expect."<sup>4</sup>

Pinckney was thereupon ordered to quit France under circumstances of great indignity,<sup>5</sup> and Monroe took his formal leave on the 30th December, 1796. In reply to his speech at that time, the president of the directory said: "By presenting, this day, to the Executive Directory your letters of recall, you offer a very strange spectacle to Europe. France, rich in her freedom, surrounded by the train of her victories, and strong in the esteem of her allies, will not stoop to calculate the consequences of the condescension of the American Government to the wishes of its ancient tyrants. The French Republic expects, however, that the successors of Columbus, Raleigh, and Penn, always proud of their liberty, will never forget that they owe it to France. They will weigh, in their wisdom, the magnanimous friendship of the French people with the crafty caresses of perfidious men, who meditate to bring them again under their former yoke. Assure the good people of America, Mr. Minister, that, like them, we adore

<sup>1</sup> F. R. F., 742.

<sup>2</sup> *Ib.*, 745.

<sup>3</sup> *Garden, Traité de Paix*, 117.

<sup>4</sup> F. R. F., 746.

<sup>5</sup> *Ib.*, 710.

liberty; that they will always possess our esteem, and find in the French people that republican generosity which knows how to grant peace as well as to cause its sovereignty to be respected."<sup>1</sup>

The moment this speech was concluded, the directory, accompanied by the Diplomatic Corps, passed into the audience-hall to receive from an Aide-de-Camp of Bonaparte the four Austrian colors taken at the battle of Arcola.<sup>2</sup> The Diplomatic Corps may, therefore, be presumed to have witnessed this indignity.

A French writer of authority thus characterizes these incidents: "Ainsi ce gouvernement prétendait que les États-unis accédassent à ses demandes sans examen, sans discussion préalable; à cet outrage, le gouvernement français en ajouta un autre: lorsque M. Monroe prit publiquement congé du directoire exécutif, Barras, qui en était le président, lui adressa un discours rempli d'expressions qui durent choquer les Américains."<sup>3</sup>

In closing the sketch of what took place during the administration of President Washington, it only remains to say that in addition to the acts of the 2d of July and the 31st of October, 1796, already referred to, the Executive Directory, on the 2d of March, 1797, decreed that all neutral ships with enemy's property on board might be captured; that enemy's property in neutral bottoms might be confiscated; that the Treaty of 1778 with the United States should be modified by the operation of the favored nation clause, so as to conform to Jay's Treaty, in the following respects: (1) That property in American bottoms not proved to be neutral should be confiscated; (2) That the list of contraband of war should be made to conform to Jay's Treaty; (3) That Americans taking a commission against France should be treated as pirates: and that every American ship should be good prize which should not have on board a crew-list in the form prescribed by the model annexed to the Treaty of 1778, the observance of which was required by the 25th and 27th Articles.<sup>4</sup> The 25th Article made provision for a passport, and for a certificate of cargo. The 27th

<sup>1</sup> F. R. F., 747.

<sup>2</sup> *Rédacteur*, No. 382, Jan. 1, 1797.

<sup>3</sup> Garden, *Traité de Paix*, 118. "Thus this government pretended that the United States should accede to its demands without examination, without discussion. To this outrage the French Government added another: While Mr. Monroe took public leave of the Executive Directory, Barras, who was the president, made him a speech full of expressions calculated to shock the Americans."

<sup>4</sup> F. R. F., 31.

Article took notice only of the passport; and the model of the passport only was annexed to the Treaty. The Treaty required that the passport should express the name, property, and bulk of the ship, and the name and place of habitation of the master, but it made no provision respecting the crew-list. After the adoption of the Constitution, Congress, by general laws, made provision for national official documents, for proof of, among other things, the facts referred to in the 25th and 27th Articles of the Treaty with France. The name of the ship was to be painted on her stern, and to be shown in the Register;<sup>1</sup> her ownership was to be proved on oath, and be stated in the Register,<sup>2</sup> and her tonnage was to be stated in the same instrument, as the result of our official survey.<sup>3</sup> Equally cogent laws were made to ensure an accurate crew-list.<sup>4</sup> It is probable, therefore, that when the decree of March 2, 1797, was made, there was not an American ship afloat with the required document; and it is equally probable that the French Government, which, with the whole civilized world, had acquiesced in the sufficiency of the new national system, knew that to be the fact. The decree was, therefore, equivalent in its operation to a declaration of maritime war against American commerce. The United States had at that time no navy against which such a war could be carried on.

The difficulties in dealing with these questions were increased by the attitude of other foreign powers. The Batavian Republic besought the United States Minister to represent to his Government "how useful it would be to the interests of the inhabitants of the two republics, that the United States should at last seriously take to heart the numberless insults daily committed on their flag by the English";<sup>5</sup> and the Spanish Minister at Philadelphia formally remonstrated against the British Treaty of 1794 as a violation of a Treaty with Spain concluded a year later, because it did not make the neutral flag secure the goods; because it extended the list of contraband; and because it assumed that Great Britain had the right of navigation of the Mississippi.<sup>6</sup>

President Adams, in his speech at the opening of the first session of the Fifth Congress (May 16, 1797), said: "With this conduct of

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<sup>1</sup>1 St. at L., 288.

<sup>2</sup>Ib., 289.

<sup>3</sup>Ib., 290; see also Ib., 55, *et seq.*

<sup>4</sup>Ib., 31.

<sup>5</sup>2 F. R. F., 13.

<sup>6</sup>Ib., 14.

the French Government it will be proper to take into view the public audience given to the late minister of the United States, on his taking leave of the Executive Directory. The speech of the President discloses sentiments more alarming than the refusal of a minister, because more dangerous to our independence and union, and at the same time studiously marked with indignities towards the Government of the United States. It evinces a disposition to separate the people of the United States from the Government; to persuade them that they have different affections, principles, and interests from those of their fellow-citizens whom they themselves have chosen to manage their common concerns; and thus, to produce divisions fatal to our peace. Such attempts ought to be repelled with a decision which shall convince France and the world that we are not a degraded people, humiliated under a colonial spirit of fear and sense of inferiority, fitted to be the miserable instruments of foreign influence, and regardless of national honor, character, and interest. \* \* \*

"The diplomatic intercourse between the United States and France being at present suspended, the Government has no means of obtaining official information from that country; nevertheless there is reason to believe that the Executive Directory passed a decree on the 2d of March last, contravening, in part, the treaty of amity and commerce of 1778, injurious to our lawful commerce, and endangering the lives of our citizens. A copy of this treaty will be laid before you.

"While we are endeavoring to adjust all of our differences with France, by amicable negotiation, the progress of the war in Europe, the depredations on our commerce, the personal injuries to our citizens, and general complexion of affairs, render it my indispensable duty to recommend to your consideration effectual measures of defence.<sup>1</sup>

"It is impossible to conceal from ourselves, or the world, what has been before observed, that endeavors have been employed to foster and establish a division between the government and people of the United States. To investigate the causes which have encouraged this attempt is not necessary. But to repel, by decided and united counsels, insinuations so derogatory to the honor, and aggression so dangerous to the Constitution, union, and even independence of the nation, is an indispensable duty."<sup>2</sup>

The answer of the House to this speech was in a conciliatory spirit;

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<sup>1</sup>Annals 5th Cong., 55.

<sup>2</sup>Ib., 59.



and on the first of the following June Congress yielded so far as to pass a law providing for passports for ships and vessels of the United States.<sup>1</sup>

Congress adjourned on the 10th of July. On the 13th President Adams commissioned Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry as Envoys to proceed to France and endeavor to renew the relations which had been so rudely broken by the Directory. Their instructions will be found in the 2d volume of the *Folio Foreign Relations*, pages 153, *et seq.* Among other matters they were to secure an adjustment of the claims for spoliations of citizens of the United States, by this time amounting to many millions of dollars.

They arrived in Paris on the evening of the 4th of October, 1797,<sup>2</sup> and at once notified the Foreign Minister of their presence and requested an interview. Instead of receiving them, three gentlemen, who have become known in history as X, Y, and Z, waited upon them at various times, sometimes singly and sometimes together, and claimed to speak for Talleyrand and the Directory. They told the Envoys that they must pay money, "a great deal of money";<sup>3</sup> and when they were asked how much, they replied "fifty thousand pounds sterling"<sup>4</sup> as a *douceur* to the Directory, and a loan to France of thirty-two millions of Dutch florins. They said that the passages in the President's speech, which are quoted above, had offended the Directory, and must be retracted, and they urged upon the commissioners in repeated interviews the necessity of opening the negotiations by proposals to that effect.<sup>5</sup>

The American commissioners listened to their statements, and after consultation determined that they "should hold no more indirect intercourse with the Government."<sup>6</sup> They addressed a letter to Talleyrand on the 11th of November, informing him that they were ready to negotiate.<sup>7</sup> They got no answer; but on the 14th of December, X appeared again,<sup>8</sup> on the 17th Y appeared,<sup>9</sup> and on the 20th "a lady, who is well

<sup>1</sup> *St. at L.*, 489.

<sup>2</sup> *F. R. F.*, 157.

<sup>3</sup> *Ib.*, 159.

<sup>4</sup> *Ib.*

<sup>5</sup> *Ib.*, 158-168.

<sup>6</sup> *Ib.*, 164.

<sup>7</sup> *Ib.*, 166.

<sup>8</sup> *Ib.*

<sup>9</sup> *Ib.*, 177.

acquainted with M. Talleyrand," talked to Pinckney on the subject;<sup>1</sup> still they got no answer from Talleyrand, and on the 18th of January they read the announcement of a decree that every vessel found at sea loaded with merchandise the production of England should be good prize.<sup>2</sup> Though unrecognized, they addressed an elaborate letter on the 27th of January, 1798, to Talleyrand, setting forth in detail and with great ability the grievances of the United States.<sup>3</sup> On the 2d of March, they had an interview with him. He repeated that the Directory had taken offense at Mr. Adams's speech, and added that they had been wounded by the last speech of President Washington. He complained that the Envoys had not been to see him personally; and he urged that they should propose a loan to France.<sup>4</sup> Pinckney said that the propositions seemed to be those made by X and Y. The Envoys then said that they had no power to agree to make such a loan. On the 18th of March, Talleyrand transmitted his reply to their note. He dwelt upon Jay's Treaty as the principal grievance of France. He says "he will content himself with observing, summarily, that in this Treaty everything having been calculated to turn the neutrality of the United States to the disadvantage of the French Republic, and to the advantage of England; that the Federal Government having in this act made to Great Britain concessions the most unheard of, the most incompatible with the interests of the United States, the most derogatory to the alliance which subsisted between the said States and the French Republic, the latter was perfectly free, in order to avoid the inconveniences of the Treaty of London, to avail itself of the preservative means with which the law of nature, the laws of nations, and prior treaties furnish it." He closed by stating "that notwithstanding the kind of prejudice which has been entertained with respect to them, the Executive Directory is disposed to treat with that one of the three whose opinions, presumed to be more impartial, promise, in the course of the explanation, more of that reciprocal confidence which is indispensable."<sup>5</sup>

Gerry was the member referred to. The three Envoys answered

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<sup>1</sup>2 F. R. F., 167.

<sup>2</sup>1 F. R. F., 182.

<sup>3</sup>Ib., 169.

<sup>4</sup>Ib., 186.

<sup>5</sup>Ib., 190-191.

that no one of the three was authorized to take the negotiation upon himself.<sup>1</sup> Pinckney and Marshall then left Paris. Gerry remained. Talleyrand tried to induce him to enter into negotiations for a loan to France, but he refused.<sup>2</sup> Before he left Paris, a mail arrived from America bringing printed copies of the despatches of the Envoys, with accounts of their interviews with X, Y, and Z and "the lady." Talleyrand at once asked Gerry for the four names.<sup>3</sup> Gerry gave him the name of Y, Mr. Bellamy, and Z, Mr. Hautval, and said that he could not give the lady's name, and would not give X's name. The name of X is preserved in the Department of State. Gerry left Paris on the 26th July, 1798.

The President transmitted to Congress the reports of the Envoys as fast as they were received; and when he heard of Marshall's arrival in America he said to Congress, "I will never send another Minister to France without assurances that he will be received, respected, and honored as the representative of a great, free, powerful, and independent nation."<sup>4</sup> The statutes of the United States show the impression which the news made upon Congress. The "Act to provide an additional armament for the further protection of the trade of the United States, and for other purposes,"<sup>5</sup> is the first of a series of acts. It was passed in the House amid great excitement. Edward Livingston, who closed the debate on the part of the opposition, said: "Let no man flatter himself that the vote which has been given is not a declaration of war. Gentlemen know that this is the case."<sup>6</sup> This was followed in the course of a few weeks by acts for organizing a Navy Department;<sup>7</sup> for increasing or regulating the Army;<sup>8</sup> for purchasing arms;<sup>9</sup> for construction of vessels;<sup>10</sup> for authorizing the cap-

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<sup>1</sup>1 F. R. F., 199.

<sup>2</sup>Ib., 204-238.

<sup>3</sup>Ib., 210.

<sup>4</sup>Ib., 199.

<sup>5</sup>1 St. at L., 552.

<sup>6</sup>2 Annals 5th Cong., 1519.

<sup>7</sup>1 St. at L., 553.

<sup>8</sup>Ib., 552, 558, 604.

<sup>9</sup>Ib., 555, 576.

<sup>10</sup>Ib., 556, 569, 608.

ture of French vessels;<sup>1</sup> for suspending all intercourse with France;<sup>2</sup> for authorizing merchant-vessels to protect themselves;<sup>3</sup> for abrogating the Treaties with France;<sup>4</sup> for establishing a Marine Corps;<sup>5</sup> and for authorizing the borrowing of money.<sup>6</sup> In the next session of Congress further augmentation of the Navy<sup>7</sup> and of the Army<sup>8</sup> was made; the suspension of intercourse was prolonged,<sup>9</sup> and provisions were made for restoring captured French citizens,<sup>10</sup> and for retaliations in case of death from impressments.<sup>11</sup>

Washington was made Lieutenant-General and Commander-in-Chief of the Army, and, in accepting, said: "The conduct of the Directory of France towards our country; their insidious hostility to its Government; their various practices to withdraw the affections of the people from it; the evident tendency of their acts and those of their agents to countenance and invigorate opposition; their disregard of solemn treaties and the law of nations; their war upon our defenceless commerce; their treatment of our Ministers of peace; and their demands, amounting to tribute, could not fail to excite in me corresponding sentiments with those my countrymen have so generally expressed in affectionate addresses to you." <sup>12</sup>

The Attorney-General gave an opinion that a maritime war existed between France and the United States, authorized by both nations,<sup>13</sup> but Congress never made the constitutional declaration of war, nor was such a declaration made on the other side.

It was on the 21st of June that President Adams informed Congress of the terms on which alone he would be willing to send a new Minister to France. Talleyrand immediately opened indirect means of communication with the American Cabinet through Murray, the American Minister at The Hague,<sup>14</sup> and on the 28th of September he sent word

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<sup>1</sup>1 St. at L., 561, 578.

<sup>2</sup>Ib., 565.

<sup>3</sup>Ib., 572.

<sup>4</sup>Ib., 578.

<sup>5</sup>Ib., 594.

<sup>6</sup>Ib., 607.

<sup>7</sup>Ib., 621.

<sup>8</sup>Ib., 725.

<sup>9</sup>Ib., 613.

<sup>10</sup>Ib., 624.

<sup>11</sup>Ib., 743.

<sup>12</sup>Annals 5th Cong., 622.

<sup>13</sup>1 Op. At.-Gen., 84, Lec.

<sup>14</sup>2 F. R. F., 241.

through Pichon, the French Secretary of Legation at the same place, that "whatever plenipotentiary the Government of the United States might send to France in order to terminate the existing differences between the two countries, he would be undoubtedly received with the respect due to the representative of a free, independent and powerful nation.<sup>1</sup> To this proffer, embodying the language of the President's message to Congress, the President replied by empowering Chief-Justice Ellsworth, Mr. Davie, and Mr. Murray "to discuss and settle, by a Treaty, all controversies between the United States and France."<sup>2</sup>

When these Envoys arrived in France they found that the Directory had been overthrown,<sup>3</sup> and they had to deal with Bonaparte as first Consul. They succeeded in restoring good relations. An account of their negotiations will be found in the 2d volume of the Folio Edition of the Foreign Relations, pages 307 to 345. Their instructions required them to secure, (1) A claims commission. (2) Abrogation of the old treaties. (3) Abolition of the guarantee of 1778. (4) No agreement for a loan. (5) No engagements inconsistent with prior Treaties, meaning doubtless Jay's Treaty. (6) No renewal of the peculiar jurisdiction conferred on consuls by the convention of 1788. (7) Duration of a Treaty not to exceed twelve years.<sup>4</sup>

The negotiators exchanged their powers on the 7th of April, 1800,<sup>5</sup> and concluded a treaty on the 30th of the following September, which (1) declared that the parties could not agree upon the indemnities; (2) nor as to the old treaties; (3) and consequently was silent respecting the guarantee; but (4) made no provisions for a loan; (5) made no engagements inconsistent with prior treaties; (6) did not renew the objectionable consular provisions; and (7) no limitation was set to its operation.

When it was submitted to the Senate that body advised its ratification, provided the second article concerning indemnities should be expunged, and that the convention should be in force for eight years from the date of the exchange of the ratifications. The French Government assented to the limitation of the duration of the Treaty, and to the expunging of the 2d article, upon condition that it should be

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<sup>1</sup>2 F. R. F., 242.

<sup>2</sup>Ib., 243.

<sup>3</sup>Ib., 307.

<sup>4</sup>Ib., 306.

<sup>5</sup>Ib., 313-14.

understood that thereby each party renounced the pretensions which were the objects of the article; which was assented to by the Senate.<sup>1</sup>

On the day following the signature of this Treaty in Paris (Sept. 30, 1800), a secret treaty was concluded at St. Ildefonso between France and Spain, which came to be of importance to the United States. This was the Treaty by which Louisiana was restored to France. In consideration of the elevation of the Duke of Parma to the rank of King, and the enlargement of his territory, it was agreed that "Sa Majesté Catholique donnera les ordres nécessaires pour que la France occupe la Louisiane au moment où S. A. R. le duc de Parme sera mise en possession de ses nouveaux Etats."<sup>2</sup>

The United States were anxious concerning the effect of this upon their future.<sup>3</sup> But the failure of the Treaty of Amiens to restore a permanent peace induced Napoleon to determine to transfer all the Louisianas to the United States. He consulted Berthier and Marbois. The conference lasted far into the night. Berthier opposed the cession. Marbois favored it. Early the next morning he called Marbois to him and said, "Je nonce à la Louisiane. Ce n'est point seulement la Nouvelle-Orléans que je veux céder; c'est toute la colonie sans en rien réserver."<sup>4</sup>

The interview took place on the 10th of April;<sup>5</sup> the decision was made on the morning of the 11th. On the afternoon of the same day the negotiations opened by an abrupt question from Talleyrand to Livingston whether the United States wished for the whole of Louisiana. Livingston, who had been instructed only to negotiate for New Orleans, and the Mississippi as a boundary line,<sup>6</sup> said, "No, we only want New Orleans and the Floridas."<sup>7</sup> But he soon found that he was dealing with a much larger question, and Monroe arrived the same day from America with fresh instructions to aid in its disposition. Napoleon empowered Marbois to negotiate for France, and instructed him to consent to the transfer, provided he could secure 50,000,000

<sup>1</sup>2 F. R. F., 344.

<sup>2</sup>8 Garden, *Traité de Paix*, 48; S. Doc. 56, 2d Sess. 23d Cong. "His Catholic Majesty will give the necessary orders so that France may occupy Louisiana the moment when His Royal Highness the Duke of Parma shall be put in possession of his new State."

<sup>3</sup>2 F. R. F., 552.

<sup>4</sup>8 Garden, *Traité de Paix*, 64. "I renounce Louisiana. It is not New Orleans only that I wish to cede; it is all the colony, reserving nothing."

<sup>5</sup>8 Garden, *Traité de Paix*, 54.

<sup>6</sup>6 F. R. F., 162, No. 460.

<sup>7</sup>2 F. R. F., 552.

francs. He did secure 80,000,000, twenty millions of which were to be applicable to the extinguishment of claims against France, and sixty millions were payable in cash to France. When it was concluded, Napoleon said: "Cette accession de territoire, affermit pour toujours la puissance des Etats-Unis, et je viens de donner à l'Angleterre un rival maritime, qui tôt ou tard abaissera son orgueil."<sup>1</sup>

Between the conclusion of the two Treaties of 1800 and 1803 a correspondence arose respecting the construction of the former Treaty.<sup>2</sup> Robert Livingston, the Minister of the United States, complained that the Council of Prizes (which he regarded "as a political board")<sup>3</sup> was proceeding in violation of the provisions of the Treaty. On the 26th of January, 1802, he was "almost hopeless" as to the claims.<sup>4</sup> His anxiety communicated itself to Madison.<sup>5</sup> The French Court next proposed to meet the French obligation in paper money,<sup>6</sup> while the appropriations on the American side were payable in coin.<sup>7</sup> Livingston thought Bonaparte stood in the way, and that, should anything happen to him, France would "very soon be able to look all demands in the face."<sup>8</sup> Monroe was sent out to aid in the negotiations, with special powers as to New Orleans and the Floridas.<sup>9</sup> He arrived just in time to find the First Consul bent on parting with Louisiana and settling with the United States. On the 9th of March, 1803, Talleyrand was already giving signs of yielding. He expressed surprise at the amount of the American claims advanced by Livingston (20,000,000 francs), but avowed his purpose of paying them, whatever they might be, and asked for a specified statement.<sup>10</sup> An explanation, which may account for part of this, may be found in two dates. The peace of Amiens was signed the 25th of March, 1802; the declaration of the renewal of the war was dated the 18th of May, 1803.

<sup>1</sup>8 Garden, *Traité de Paix*, 88. "This accession of territory consolidates forever the power of the United States, and I have just given to England a maritime rival who sooner or later will humble her pride."

<sup>2</sup>6 F. R. F., 154-168.

<sup>3</sup>Ib., 156.

<sup>4</sup>Ib.

<sup>5</sup>Ib., 158.

<sup>6</sup>Ib., 161.

<sup>7</sup>Ib., 162.

<sup>8</sup>Ib., 163.

<sup>9</sup>Ib., 166.

<sup>10</sup>Ib., 167-168.

The Convention of 1800, after providing for the restoration of certain captured property, contained a provision that the debts contracted by one of the two nations with individuals of the other should be paid,<sup>1</sup> but that this clause should not extend to indemnities claimed on account of captures or condemnations. The Convention of 1803 stipulated that these debts, with interest at six per cent., should not exceed twenty millions of francs.

To entitle a claimant to participate in this fund, it was necessary: 1. That he should be a citizen of the United States who had been, and was at the time of the signing of the Treaty, a creditor of France, and who had no established house of commerce in France, England, or other country than the United States, in partnership with foreigners; 2. That, if the claim were for a debt, it should have been contracted for supplies before the 30th of September, 1800, and should have been claimed of the actual Government of France before the 30th of April, 1803; 3. That, if for prizes, it should not be for a prize whose condemnation had been or should be confirmed; 4. That, if for captures, it should not be a case in which the council of prizes had ordered restitution, or in which the claimant could not have had recourse to the government of the French Republic, or where the captors were sufficient; 5. That it should either be for supplies, for embargoes, or for prizes made at sea, in which the appeal had been properly lodged within the time mentioned in the Convention of 1800.

The distribution of this money gave rise to some sharp correspondence.<sup>2</sup> The claims which were excluded from participation in the distribution have become known as the "French Spoliation Claims." They have been often the subject of Congressional discussion and report.<sup>3</sup>

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<sup>1</sup>Art. 5.

<sup>2</sup>6 F. R. F., 182-207.

<sup>3</sup>See particularly 5 F. R. F., 314, 352, and 6 F. R. F., 3-207, 558, 1121, and S. R. 10, 2d Sess. 41st Cong., and the various authorities there cited; also, among others, an elaborate debate in the Senate, 11 Debates, 2d Sess. 23d Cong. [H. R., 445, 25th Cong. 2d Sess.].





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## Extracts from Messages of President Adams, and Replies of the Senate and House

### SPECIAL SESSION MESSAGE <sup>1</sup>

UNITED STATES, May 16, 1797.

*Gentlemen of the Senate and Gentlemen of the House of Representatives:*

The personal inconveniences to the members of the Senate and of the House of Representatives in leaving their families and private affairs at this season of the year are so obvious that I the more regret the extraordinary occasion which has rendered the convention of Congress indispensable.

It would have afforded me the highest satisfaction to have been able to congratulate you on a restoration of peace to the nations of Europe whose animosities have endangered our tranquillity; but we have still abundant cause of gratitude to the Supreme Dispenser of National Blessings for general health and promising seasons, for domestic and social happiness, for the rapid progress and ample acquisitions of industry through extensive territories, for civil, political, and religious liberty. While other states are desolated with foreign war or convulsed with intestine divisions, the United States present the pleasing prospect of a nation governed by mild and equal laws, generally satisfied with the possession of their rights, neither envying the advantages nor fearing the power of other nations, solicitous only for the maintenance of order and justice and the preservation of liberty, increasing daily in their attachment to a system of government in proportion to their experience of its utility, yielding a ready and general obedience to laws flowing from the reason and resting on the only solid foundation—the affections of the people.

It is with extreme regret that I shall be obliged to turn your thoughts to other circumstances, which admonish us that some of these felicities may not be lasting. But if the tide of our prosperity is full and a reflux commencing, a vigilant circumspection becomes us, that we may meet out reverses with fortitude and extricate ourselves from their consequences with all the skill we possess and all the efforts in our power.

In giving to Congress information of the state of the Union and rec-

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<sup>1</sup>Richardson, Messages, vol. 1, p. 233.

ommending to their consideration such measures as appear to me to be necessary or expedient, according to my constitutional duty, the causes and the objects of the present extraordinary session will be explained.

After the President of the United States received information that the French Government had expressed serious discontents at some proceedings of the Government of these States said to affect the interests of France, he thought it expedient to send to that country a new minister, fully instructed to enter on such amicable discussions and to give such candid explanations as might happily remove the discontents and suspicions of the French Government and vindicate the conduct of the United States. For this purpose he selected from among his fellow-citizens a character whose integrity, talents, experience, and services had placed him in the rank of the most esteemed and respected in the nation. The direct object of his mission was expressed in his letter of credence to the French Republic, being "to maintain that good understanding which from the commencement of the alliance had subsisted between the two nations, and to efface unfavorable impressions, banish suspicions, and restore that cordiality which was at once the evidence and pledge of a friendly union." And his instructions were to the same effect, "faithfully to represent the disposition of the Government and people of the United States (their disposition being one), to remove jealousies and obviate complaints by shewing that they were groundless, to restore that mutual confidence which had been so unfortunately and injuriously impaired, and to explain the relative interests of both countries and the real sentiments of his own."

A minister thus specially commissioned it was expected would have proved the instrument of restoring mutual confidence between the two Republics. The first step of the French Government corresponded with that expectation. A few days before his arrival at Paris the French minister of foreign relations informed the American minister then resident at Paris of the formalities to be observed by himself in taking leave, and by his successor preparatory to his reception. These formalities they observed, and on the 9th of December presented officially to the minister of foreign relations, the one a copy of his letters of recall, the other a copy of his letters of credence.

These were laid before the Executive Directory. Two days afterwards the minister of foreign relations informed the recalled American minister that the Executive Directory had determined not to re-

ceive another minister plenipotentiary from the United States until after the redress of grievances demanded of the American Government, and which the French Republic had a right to expect from it. The American minister immediately endeavored to ascertain whether by refusing to receive him it was intended that he should retire from the territories of the French Republic, and verbal answers were given that such was the intention of the Directory. For his own justification he desired a written answer, but obtained none until toward the last of January, when, receiving notice in writing to quit the territories of the Republic, he proceeded to Amsterdam, where he proposed to wait for instruction from this Government. During his residence at Paris cards of hospitality were refused him, and he was threatened with being subjected to the jurisdiction of the minister of police; but with becoming firmness he insisted on the protection of the law of nations due to him as the known minister of a foreign power. You will derive further information from his dispatches, which will be laid before you.

As it is often necessary that nations should treat for the mutual advantage of their affairs, and especially to accommodate and terminate differences, and as they can treat only by ministers, the right of embassy is well known and established by the law and usage of nations. The refusal on the part of France to receive our minister is, then, the denial of a right; but the refusal to receive him until we have acceded to their demands without discussion and without investigation is to treat us neither as allies nor as friends, nor as a sovereign state.

With this conduct of the French Government it will be proper to take into view the public audience given to the late minister of the United States on his taking leave of the Executive Directory. The speech of the President discloses sentiments more alarming than the refusal of a minister, because more dangerous to our independence and union and at the same time studiously marked with indignities toward the Government of the United States. It evinces a disposition to separate the people of the United States from the Government, to persuade them that they have different affections, principles, and interests from those of their fellow-citizens whom they themselves have chosen to manage their common concerns, and thus to produce divisions fatal to our peace. Such attempts ought to be repelled with a decision which shall convince France and the world that we are not a degraded people, humiliated under a colonial spirit of fear and sense of inferiority,

fitted to be the miserable instruments of foreign influence, and regardless of national honor, character, and interest.

I should have been happy to have thrown a veil over these transactions if it had been possible to conceal them; but they have passed on the great theater of the world, in the face of all Europe and America, and with such circumstances of publicity and solemnity that they can not be disguised and will not soon be forgotten. They have inflicted a wound in the American breast. It is my sincere desire, however, that it may be healed.

It is my sincere desire, and in this I presume I concur with you and with our constituents, to preserve peace and friendship with all nations; and believing that neither the honor nor the interest of the United States absolutely forbid the repetition of advances for securing these desirable objects with France, I shall institute a fresh attempt at negotiation, and shall not fail to promote and accelerate an accommodation on terms compatible with the rights, duties, interests, and honor of the nation. If we have committed errors, and these can be demonstrated, we shall be willing to correct them; if we have done injuries, we shall be willing on conviction to redress them; and equal measures of justice we have a right to expect from France and every other nation.

The diplomatic intercourse between the United States and France being at present suspended, the Government has no means of obtaining official information from that country. Nevertheless, there is reason to believe that the Executive Directory passed a decree on the 2d of March last contravening in part the treaty of amity and commerce of 1778, injurious to our lawful commerce and endangering the lives of our citizens. A copy of this decree will be laid before you.

While we are endeavoring to adjust all our differences with France by amicable negotiation, the progress of the war in Europe, the depredations on our commerce, the personal injuries to our citizens, and the general complexion of affairs render it my indispensable duty to recommend to your consideration effectual measures of defense.

The commerce of the United States has become an interesting object of attention, whether we consider it in relation to the wealth and finances or the strength and resources of the nation. With a seacoast of near 2,000 miles in extent, opening a wide field for fisheries, navigation, and commerce, a great portion of our citizens naturally apply

their industry and enterprise to these objects. Any serious and permanent injury to commerce would not fail to produce the most embarrassing disorders. To prevent it from being undermined and destroyed it is essential that it receive an adequate protection.

The naval establishment must occur to every man who considers the injuries committed on our commerce, the insults offered to our citizens, and the description of vessels by which these abuses have been practiced. As the sufferings of our mercantile and seafaring citizens can not be ascribed to the omission of duties demandable, considering the neutral situation of our country, they are to be attributed to the hope of impunity arising from a supposed inability on our part to afford protection. To resist the consequences of such impressions on the minds of foreign nations and to guard against the degradation and servility which they must finally stamp on the American character is an important duty of Government.

A naval power, next to the militia, is the natural defense of the United States. The experience of the last war would be sufficient to shew that a moderate naval force, such as would be easily within the present abilities of the Union, would have been sufficient to have baffled many formidable transportations of troops from one State to another, which were then practiced. Our seacoasts, from their great extent, are more easily annoyed and more easily defended by a naval force than any other. With all the materials our country abounds; in skill our naval architects and navigators are equal to any, and commanders and seamen will not be wanting.

But although the establishment of a permanent system of naval defense appears to be requisite, I am sensible it can not be formed so speedily and extensively as the present crisis demands. Hitherto I have thought proper to prevent the sailing of armed vessels except on voyages to the East Indies, where general usage and the danger from pirates appeared to render the permission proper. Yet the restriction has originated solely from a wish to prevent collisions with the powers at war, contravening the act of Congress of June, 1794, and not from any doubt entertained by me of the policy and propriety of permitting our vessels to employ means of defense while engaged in a lawful foreign commerce. It remains for Congress to prescribe such regulations as will enable our seafaring citizens to defend themselves against violations of the law of nations, and at the same time restrain them

from committing acts of hostility against the powers at war. In addition to this voluntary provision for defense by individual citizens, it appears to me necessary to equip the frigates, and provide other vessels of inferior force, to take under convoy such merchant vessels as shall remain unarmed.

The greater part of the cruisers whose depredations have been most injurious have been built and some of them partially equipped in the United States. Although an effectual remedy may be attended with difficulty, yet I have thought it my duty to present the subject generally to your consideration. If a mode can be devised by the wisdom of Congress to prevent the resources of the United States from being converted into the means of annoying our trade, a great evil will be prevented. With the same view, I think it proper to mention that some of our citizens resident abroad have fitted out privateers, and others have voluntarily taken the command, or entered on board of them, and committed spoliations on the commerce of the United States. Such unnatural and iniquitous practices can be restrained only by severe punishments.

But besides a protection of our commerce on the seas, I think it highly necessary to protect it at home, where it is collected in our most important ports. The distance of the United States from Europe and the well-known promptitude, ardor, and courage of the people in defense of their country happily diminish the probability of invasion. Nevertheless, to guard against sudden and predatory incursions the situation of some of our principal seaports demands your consideration. And as our country is vulnerable in other interests besides those of its commerce, you will seriously deliberate whether the means of general defense ought not to be increased by an addition to the regular artillery and cavalry, and by arrangements for forming a provisional army.

With the same view, and as a measure which, even in a time of universal peace, ought not to be neglected, I recommend to your consideration a revision of the laws for organizing, arming, and disciplining the militia, to render that natural and safe defense of the country efficacious.

Although it is very true that we ought not to involve ourselves in the political system of Europe, but to keep ourselves always distinct and separate from it if we can, yet to effect this separation, early, punctual, and continual information of the current chain of events and

of the political projects in contemplation is no less necessary than if we were directly concerned in them. It is necessary, in order to the discovery of the efforts made to draw us into the vortex, in season to make preparations against them. However we may consider ourselves, the maritime and commercial powers of the world will consider the United States of America as forming a weight in that balance of power in Europe which never can be forgotten or neglected. It would not only be against our interest, but it would be doing wrong to one-half of Europe, at least, if we should voluntarily throw ourselves into either scale. It is a natural policy for a nation that studies to be neutral to consult with other nations engaged in the same studies and pursuits. At the same time that measures might be pursued with this view, our treaties with Prussia and Sweden, one of which is expired and the other near expiring, might be renewed.

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*Address of the Senate to John Adams, President of the United States<sup>1</sup>*

SIR: The Senate of the United States request you to accept their acknowledgments for the comprehensive and interesting detail you have given in your speech to both Houses of Congress on the existing state of the Union.

While we regret the necessity of the present meeting of the Legislature, we wish to express our entire approbation of your conduct in convening it on this momentous occasion.

The superintendence of our national faith, honor, and dignity being in a great measure constitutionally deposited with the Executive, we observe with singular satisfaction the vigilance, firmness, and promptitude exhibited by you in this critical state of our public affairs, and from thence derive an evidence and pledge of the rectitude and integrity of your Administration. And we are sensible it is an object of primary importance that each branch of the Government should adopt a language and system of conduct which shall be cool, just, and dispassionate, but firm, explicit, and decided.

We are equally desirous with you to preserve peace and friendship with all nations, and are happy to be informed that neither the honor nor interests of the United States forbid advances for securing those

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<sup>1</sup>Richardson, Messages, vol. 1, p. 239.



desirable objects by amicable negotiation with the French Republic. This method of adjusting national differences is not only the most mild, but the most rational and humane, and with governments disposed to be just can seldom fail of success when fairly, candidly, and sincerely used. If we have committed errors and can be made sensible of them, we agree with you in opinion that we ought to correct them, and compensate the injuries which may have been consequent thereon; and we trust the French Republic will be actuated by the same just and benevolent principles of national policy.

We do therefore most sincerely approve of your determination to promote and accelerate an accommodation of our existing differences with that Republic by negotiation, on terms compatible with the rights, duties, interests, and honor of our nation. And you may rest assured of our most cordial coöperation so far as it may become necessary in this pursuit.

Peace and harmony with all nations is our sincere wish; but such being the lot of humanity that nations will not always reciprocate peaceable dispositions, it is our firm belief that effectual measures of defense will tend to inspire that national self-respect and confidence at *home* which is the unfailing source of respectability *abroad*, to check aggression and prevent war.

While we are endeavoring to adjust our differences with the French Republic by amicable negotiation, the progress of the war in Europe, the depredations on our commerce, the personal injuries to our citizens, and the general complexion of affairs prove to us your vigilant care in recommending to our attention effectual measures of defense.

Those which you recommend, whether they relate to external defense by permitting our citizens to arm for the purpose of repelling aggressions on their commercial rights, and by providing sea convoys, or to internal defense by increasing the establishments of artillery and cavalry, by forming a provisional army, by revising the militia laws, and fortifying more completely our ports and harbors, will meet our consideration under the influence of the same just regard for the security, interest, and honor of our country which dictated your recommendation.

Practices so unnatural and iniquitous as those you state, of our own citizens converting their property and personal exertions into the means of annoying our trade and injuring their fellow-citizens, deserve legal severity commensurate with their turpitude.

Although the Senate believe that the prosperity and happiness of our country does not depend on general and extensive political connections with European nations, yet we can never lose sight of the propriety as well as necessity of enabling the Executive, by sufficient and liberal supplies, to maintain and even extend our foreign intercourse as exigencies may require, reposing full confidence in the Executive, in whom the Constitution has placed the powers of negotiation.

We learn with sincere concern that attempts are in operation to alienate the affections of our fellow-citizens from their Government. Attempts so wicked, wherever they exist, can not fail to excite our utmost abhorrence. A government chosen by the people for their own safety and happiness, and calculated to secure both, can not lose their affections so long as its administration pursues the principles upon which it was erected; and your resolution to observe a conduct just and impartial to all nations, a sacred regard to our national engagements, and not to impair the rights of our Government, contains principles which can not fail to secure to your Administration the support of the National Legislature to render abortive every attempt to excite dangerous jealousies among us, and to convince the world that our Government and your administration of it can not be separated from the affectionate support of every good citizen. And the Senate can not suffer the present occasion to pass without thus publicly and solemnly expressing their attachment to the Constitution and Government of their country; and as they hold themselves responsible to their constituents, their consciences, and their God, it is their determination by all their exertions to repel every attempt to alienate the affections of the people from the Government, so highly injurious to the honor, safety, and independence of the United States.

We are happy, since our sentiments on the subject are in perfect unison with yours, in this public manner to declare that we believe the conduct of the Government has been just and impartial to foreign nations, and that those internal regulations which have been established for the preservation of peace are in their nature proper and have been fairly executed.

And we are equally happy in possessing an entire confidence in your abilities and exertions in your station to maintain untarnished the honor, preserve the peace, and support the independence of our country, to acquire and establish which, in connection with your fellow-

citizens, has been the virtuous effort of a principal part of your life.

To aid you in these arduous and honorable exertions, as it is our duty so it shall be our faithful endeavor; and we flatter ourselves, sir, that the proceedings of the present session of Congress will manifest to the world that although the United States love peace, they will be independent; that they are sincere in their declarations to be just to the French and all other nations, and expect the same in return.

If a sense of justice, a love of moderation and peace, shall influence their councils, which we sincerely hope we shall have just grounds to expect, peace and amity between the United States and all nations will be preserved.

But if we are so unfortunate as to experience injuries from any foreign power, and the ordinary methods by which differences are amicably adjusted between nations shall be rejected, the determination "not to surrender in any manner the rights of the Government," being so inseparably connected with the dignity, interest, and independence of our country, shall by us be steadily and inviolably supported.

TH: JEFFERSON,

*Vice-President of the United States and President of the Senate.*

MAY 23, 1797.

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#### *Reply of the President<sup>1</sup>*

*Mr. Vice-President and Gentlemen of the Senate:*

It would be an affectation in me to dissemble the pleasure I feel on receiving this kind address.

My long experience of the wisdom, fortitude, and patriotism of the Senate of the United States enhances in my estimation the value of those obliging expressions of your approbation of my conduct, which are a generous reward for the past and an affecting encouragement to constancy and perseverance in future.

Our sentiments appear to be so entirely in unison that I can not but believe them to be the rational result of the understandings and the natural feelings of the hearts of Americans in general on contemplating the present state of the nation.

While such principles and affections prevail they will form an indissoluble bond of union and a sure pledge that our country has no

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<sup>1</sup>Richardson, *Messages*, vol. 1, p. 242.

essential injury to apprehend from any portentous appearances abroad. In a humble reliance on Divine Providence we may rest assured that while we reiterate with sincerity our endeavors to accommodate all our differences with France, the independence of our country can not be diminished, its dignity degraded, or its glory tarnished by any nation or combination of nations, whether friends or enemies.

JOHN ADAMS.

MAY 24, 1797.

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*Address of the House of Representatives to John Adams, President of the United States*<sup>1</sup>

SIR: The interesting details of those events which have rendered the convention of Congress at this time indispensable (communicated in your speech to both Houses) has excited in us the strongest emotions. Whilst we regret the occasion, we can not omit to testify our approbation of the measure, and pledge ourselves that no considerations of private inconvenience shall prevent on our part a faithful discharge of the duties to which we are called.

We have constantly hoped that the nations of Europe, whilst desolated by foreign wars or convulsed by intestine divisions, would have left the United States to enjoy that peace and tranquillity to which the impartial conduct of our Government has entitled us, and it is now with extreme regret we find the measures of the French Republic tending to endanger a situation so desirable and interesting to our country.

Upon this occasion we feel it our duty to express in the most explicit manner the sensations which the present crisis has excited, and to assure you of our zealous coöperation in those measures which may appear necessary for our security or peace.

Although it is the earnest wish of our hearts that peace may be maintained with the French Republic and with all the world, yet we never will surrender those rights which belong to us as a nation; and whilst we view with satisfaction the wisdom, dignity, and moderation which have marked the measures of the Supreme Executive of our country in his attempt to remove by candid explanations the complaints and jealousies of France, we feel the full force of that indignity which

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<sup>1</sup>Richardson, Messages, vol. 1, p. 242.

has been offered our country in the rejection of its minister. No attempts to wound our rights as a sovereign State will escape the notice of our constituents. They will be felt with indignation and repelled with that decision which shall convince the world that we are not a degraded people; that we can never submit to the demands of a foreign power without examination and without discussion.

Knowing as we do the confidence reposed by the people of the United States in their Government, we can not hesitate in expressing our indignation at any sentiments tending to derogate from that confidence. Such sentiments, wherever entertained, serve to evince an imperfect knowledge of the opinions of our constituents. An attempt to separate the people of the United States from their Government is an attempt to separate them from themselves; and although foreigners who know not the genius of our country may have conceived the project, and foreign emissaries may attempt the execution, yet the united efforts of our fellow-citizens will convince the world of its impracticability.

Sensibly as we feel the wound which has been inflicted by the transactions disclosed in your communications, yet we think with you that neither the honor nor the interest of the United States forbid the repetition of advances for preserving peace; we therefore receive with the utmost satisfaction your information that a fresh attempt at negotiation will be instituted, and we cherish the hope that a mutual spirit of conciliation, and a disposition on the part of France to compensate for any injuries which may have been committed upon our neutral rights, and on the part of the United States to place France on grounds similar to those of other countries in their relation and connection with us (if any inequalities shall be found to exist), will produce an accommodation compatible with the engagements, rights, duties, and honor of the United States. Fully, however, impressed with the uncertainty of the result, we shall prepare to meet with fortitude any unfavorable events which may occur, and to extricate ourselves from their consequences with all the skill we possess and all the efforts in our power. Believing with you that the conduct of the Government has been just and impartial to foreign nations, that the laws for the preservation of peace have been proper, and that they have been fairly executed, the Representatives of the people do not hesitate to declare that they will give their most cordial support to the execution of principles so deliberately and uprightly established.

The many interesting subjects which you have recommended to our consideration, and which are so strongly enforced by this momentous occasion, will receive every attention which their importance demands, and we trust that, by the decided and explicit conduct which will govern our deliberations, every insinuation will be repelled which is derogatory to the honor and independence of our country.

Permit us in offering this address to express our satisfaction at your promotion to the first office in the Government and our entire confidence that the preëminent talents and patriotism which have placed you in this distinguished situation will enable you to discharge its various duties with satisfaction to yourself and advantage to our common country.

JUNE 2, 1797.

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*Reply of the President<sup>1</sup>*

*Mr. Speaker and Gentlemen of the House of Representatives:*

I receive with great satisfaction your candid approbation of the convention of Congress, and thank you for your assurances that the interesting subjects recommended to your consideration shall receive the attention which their importance demands, and that your cooperation may be expected in those measures which may appear necessary for our security or peace.

The declarations of the Representatives of this nation of their satisfaction at my promotion to the first office in this Government and of their confidence in my sincere endeavors to discharge the various duties of it with advantage to our common country have excited my most grateful sensibility.

I pray you, gentlemen, to believe and to communicate such assurance to our constituents that no event which I can foresee to be attainable by any exertions in the discharge of my duties can afford me so much cordial satisfaction as to conduct a negotiation with the French Republic to a removal of prejudices, a correction of errors, a dissipation of umbrages, an accommodation of all differences, and a restoration of harmony and affection to the mutual satisfaction of both nations. And whenever the legitimate organs of intercourse shall be restored and the real sentiments of the two Governments can be candidly communicated

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<sup>1</sup>Richardson, Messages, vol. 1, p. 244.

to each other, although strongly impressed with the necessity of collecting ourselves into a manly posture of defense, I nevertheless entertain an encouraging confidence that a mutual spirit of conciliation, a disposition to compensate injuries and accommodate each other in all our relations and connections, will produce an agreement to a treaty consistent with the engagements, rights, duties, and honor of both nations.

JOHN ADAMS.

JUNE 3, 1797.

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FIRST ANNUAL ADDRESS <sup>1</sup>

UNITED STATES, *November 22, 1797.*

*Gentlemen of the Senate and Gentlemen of the House of Representatives:*

Although I can not yet congratulate you on the reestablishment of peace in Europe and the restoration of security to the persons and properties of our citizens from injustice and violence at sea, we have, nevertheless, abundant cause of gratitude to the source of benevolence and influence for interior tranquillity and personal security, for propitious seasons, prosperous agriculture, productive fisheries, and general improvements, and, above all, for a rational spirit of civil and religious liberty and a calm but steady determination to support our sovereignty, as well as our moral and our religious principles, against all open and secret attacks.

Our envoys extraordinary to the French Republic embarked—one in July, the other early in August—to join their colleague in Holland. I have received intelligence of the arrival of both of them in Holland, from whence they all proceeded on their journeys to Paris within a few days of the 19th of September. Whatever may be the result of this mission, I trust that nothing will have been omitted on my part to conduct the negotiation to a successful conclusion, on such equitable terms as may be compatible with the safety, honor, and interest of the United States. Nothing, in the meantime, will contribute so much to the preservation of peace and the attainment of justice as a manifestation of that energy and unanimity of which on many former occasions the people of the United States have given such memorable proofs,

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<sup>1</sup>Richardson, *Messages*, vol. 1, p. 250.

and the exertion of those resources for national defense which a beneficent Providence has kindly placed within their power.

It may be confidently asserted that nothing has occurred since the adjournment of Congress which renders inexpedient those precautionary measures recommended by me to the consideration of the two Houses at the opening of your late extraordinary session. If that system was then prudent, it is more so now, as increasing depredations strengthen the reasons for its adoption.

Indeed, whatever may be the issue of the negotiation with France, and whether the war in Europe is or is not to continue, I hold it most certain that permanent tranquillity and order will not soon be obtained. The state of society has so long been disturbed, the sense of moral and religious obligations so much weakened, public faith and national honor have been so impaired, respect to treaties has been so diminished, and the law of nations has lost so much of its force, while pride, ambition, avarice, and violence have been so long unrestrained, there remains no reasonable ground on which to raise an expectation that a commerce without protection or defense will not be plundered.

The commerce of the United States is essential, if not to their existence, at least to their comfort, their growth, prosperity, and happiness. The genius, character, and habits of the people are highly commercial. Their cities have been formed and exist upon commerce. Our agriculture, fisheries, arts, and manufactures are connected with and depend upon it. In short, commerce has made this country what it is, and it can not be destroyed or neglected without involving the people in poverty and distress. Great numbers are directly and solely supported by navigation. The faith of society is pledged for the preservation of the rights of commercial and seafaring no less than of the other citizens. Under this view of our affairs, I should hold myself guilty of a neglect of duty if I forbore to recommend that we should make every exertion to protect our commerce and to place our country in a suitable posture of defense as the only sure means of preserving both.

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*Address of the Senate to John Adams, President of the United States<sup>1</sup>*

THE PRESIDENT OF THE UNITED STATES:

It would have given us much pleasure to have received your con-

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<sup>1</sup>Richardson, *Messages*, vol. 1, p. 254.



gratulations on the reëstablishment of peace in Europe and the restoration of security to the persons and property of our citizens from injustice and violence at sea ; but though these events, so desirable to our country and the world, have not taken place, yet we have abundant cause of gratitude to the Great Disposer of Human Events for interior tranquillity and personal security, for propitious seasons, prosperous agriculture, productive fisheries, and general improvement, and, above all, for a rational spirit of civil and religious liberty and a calm but steady determination to support our sovereignty against all open and secret attacks.

We learn with satisfaction that our envoys extraordinary to the French Republic had safely arrived in Europe and were proceeding to the scene of negotiation, and whatever may be the result of the mission, we are perfectly satisfied that nothing on your part has been omitted which could in any way conduce to a successful conclusion of the negotiation upon terms compatible with the safety, honor, and interest of the United States ; and we are fully convinced that in the meantime a manifestation of that unanimity and energy of which the people of the United States have given such memorable proofs and a proper exertion of those resources of national defense which we possess will essentially contribute to the preservation of peace and the attainment of justice.

We think, sir, with you that the commerce of the United States is essential to the growth, comfort, and prosperity of our country, and that the faith of society is pledged for the preservation of the rights of commercial and seafaring no less than of other citizens. And even if our negotiation with France should terminate favorably and the war in Europe cease, yet the state of society which unhappily prevails in so great a portion of the world and the experience of past times under better circumstances unite in warning us that a commerce so extensive and which holds out so many temptations to lawless plunderers can never be safe without protection ; and we hold ourselves obliged by every tie of duty which binds us to our constituents to promote and concur in such measures of marine defense as may convince our merchants and seamen that their rights are not sacrificed nor their injuries forgotten.

Nov. 27, 1797.

*Reply of the President<sup>1</sup>*

UNITED STATES, November 28, 1797.

*Gentlemen of the Senate:*

I thank you for this address.

When, after the most laborious investigation and serious reflection, without partial considerations or personal motives, measures have been adopted or recommended, I can receive no higher testimony of their rectitude than the approbation of an assembly so independent, patriotic, and enlightened as the Senate of the United States.

Nothing has afforded me more entire satisfaction than the coincidence of your judgment with mine in the opinion of the essential importance of our commerce and the absolute necessity of a maritime defense. What is it that has drawn to Europe the superfluous riches of the three other quarters of the globe but a marine? What is it that has drained the wealth of Europe itself into the coffers of two or three of its principal commercial powers but a marine?

The world has furnished no example of a flourishing commerce without a maritime protection, and a moderate knowledge of man and his history will convince anyone that no such prodigy ever can arise. A mercantile marine and a military marine must grow up together; one can not long exist without the other:

JOHN ADAMS.

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*Address of the House of Representatives to John Adams, President of the United States<sup>2</sup>*

In lamenting the increase of the injuries offered to the persons and property of our citizens at sea we gratefully acknowledge the continuance of interior tranquillity and the attendant blessings of which you remind us as alleviations of these fatal effects of injustice and violence.

Whatever may be the result of the mission to the French Republic, your early and uniform attachment to the interest of our country, your important services in the struggle for its independence, and your unceasing exertions for its welfare afford no room to doubt of the sincerity of your efforts to conduct the negotiation to a successful conclusion on such terms as may be compatible with the safety, honor, and

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<sup>1</sup>Richardson, Messages, vol. 1, p. 256.

<sup>2</sup>Ibid., p. 257.

interest of the United States. We have also a firm reliance upon the energy and unanimity of the people of these States in the assertion of their rights, and on their determination to exert upon all proper occasions their ample resources in providing for the national defense.

The importance of commerce and its beneficial influence upon agriculture, arts, and manufactures have been verified in the growth and prosperity of our country. It is essentially connected with the other great interests of the community; they must flourish and decline together; and while the extension of our navigation and trade naturally excites the jealousy and tempts the avarice of other nations, we are firmly persuaded that the numerous and deserving class of citizens engaged in these pursuits and dependent on them for their subsistence has a strong and indisputable claim to our support and protection.

Nov. 28, 1797.

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*Reply of the President<sup>1</sup>*

UNITED STATES, November 29, 1797.

*Gentlemen of the House of Representatives:*

I receive this address from the House of Representatives of the United States with peculiar pleasure.

Your approbation of the meeting of Congress in this city and of those other measures of the Executive authority of Government communicated in my address to both Houses at the opening of the session afford me great satisfaction, as the strongest desire of my heart is to give satisfaction to the people and their Representatives by a faithful discharge of my duty.

The confidence you express in the sincerity of my endeavors and in the unanimity of the people does me much honor and gives me great joy.

I rejoice in that harmony which appears in the sentiments of all the branches of the Government on the importance of our commerce and our obligations to defend it, as well as in all the other subjects recommended to your consideration, and sincerely congratulate you and our fellow-citizens at large on this appearance, so auspicious to the honor, interest, and happiness of the nation.

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<sup>1</sup>Richardson, Messages, vol. 1, p. 258.

SECOND ANNUAL ADDRESS <sup>1</sup>

UNITED STATES, December 8, 1798.

*Gentlemen of the Senate and Gentlemen of the House of  
Representatives:*

The course of the transactions in relation to the United States and France which have come to my knowledge during your recess will be made the subject of a future communication. That communication will confirm the ultimate failure of the measures which have been taken by the Government of the United States toward an amicable adjustment of differences with that power. You will at the same time perceive that the French Government appears solicitous to impress the opinion that it is averse to a rupture with this country, and that it has in a qualified manner declared itself willing to receive a minister from the United States for the purpose of restoring a good understanding. It is unfortunate for professions of this kind that they should be expressed in terms which may countenance the inadmissible pretension of a right to prescribe the qualifications which a minister from the United States should possess, and that while France is asserting the existence of a disposition on her part to conciliate with sincerity the differences which have arisen, the sincerity of a like disposition on the part of the United States, of which so many demonstrative proofs have been given, should even be indirectly questioned. It is also worthy of observation that the decree of the Directory alleged to be intended to restrain the depredations of French cruisers on our commerce has not given, and can not give, any relief. It enjoins them to conform to all the laws of France relative to cruising and prizes, while these laws are themselves the sources of the depredations of which we have so long, so justly, and so fruitlessly complained.

The law of France enacted in January last, which subjects to capture and condemnation neutral vessels and their cargoes if any portion of the latter are of British fabric or produce, although the entire property belong to neutrals, instead of being rescinded has lately received a confirmation by the failure of a proposition for its repeal. While this law, which is an unequivocal act of war on the commerce of the nations it attacks, continues in force those nations can see in the French Government only a power regardless of their essential rights, of their independence and sovereignty; and if they possess the means they can reconcile nothing with their interest and honor but a firm resistance.

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<sup>1</sup>Richardson, Messages, vol. 1, p. 271.

Hitherto, therefore, nothing is discoverable in the conduct of France which ought to change or relax our measures of defense. On the contrary, to extend and invigorate them is our true policy. We have no reason to regret that these measures have been thus far adopted and pursued, and in proportion as we enlarge our view of the portentous and incalculable situation of Europe we shall discover new and cogent motives for the full development of our energies and resources.

But in demonstrating by our conduct that we do not fear war in the necessary protection of our rights and honor we shall give no room to infer that we abandon the desire of peace. An efficient preparation for war can alone insure peace. It is peace that we have uniformly and perseveringly cultivated, and harmony between us and France may be restored at her option. But to send another minister without more determinate assurances that he would be received would be an act of humiliation to which the United States ought not to submit. It must therefore be left with France (if she is indeed desirous of accommodation) to take the requisite steps. The United States will steadily observe the maxims by which they have hither been governed. They will respect the sacred rights of embassy; and with a sincere disposition on the part of France to desist from hostility, to make reparation for the injuries heretofore inflicted on our commerce, and to do justice in future, there will be no obstacle to the restoration of a friendly intercourse. In making to you this declaration I give a pledge to France and the world that the Executive authority of this country still adheres to the humane and pacific policy which has invariably governed its proceedings, in conformity with the wishes of the other branches of the Government and of the people of the United States. But considering the late manifestations of her policy toward foreign nations, I deem it a duty deliberately and solemnly to declare my opinion that whether we negotiate with her or not, vigorous preparations for war will be alike indispensable. These alone will give to us an equal treaty and insure its observance.

Among the measures of preparation which appear expedient, I take the liberty to recall your attention to the naval establishment. The beneficial effects of the small naval armament provided under the acts of the last session are known and acknowledged. Perhaps no country ever experienced more sudden and remarkable advantages from any measure of policy than we have derived from the arming for our maritime protection and defense. We ought without loss of time to lay the

foundation for an increase of our Navy to a size sufficient to guard our coast and protect our trade. Such a naval force as it is doubtless in the power of the United States to create and maintain would also afford to them the best means of general defense by facilitating the safe transportation of troops and stores to every part of our extensive coast. To accomplish this important object, a prudent foresight requires that systematical measures be adopted for procuring at all times the requisite timber and other supplies. In what manner this shall be done I leave to your consideration.

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*Address of the Senate to John Adams, President of the United States*<sup>1</sup>

THE PRESIDENT OF THE UNITED STATES:

Although we have sincerely wished that an adjustment of our differences with the Republic of France might be effected on safe and honorable terms, yet the information you have given us of the ultimate failure of the negotiation has not surprised us. In the general conduct of that Republic we have seen a design of universal influence incompatible with the self-government and destructive of the independence of other States. In its conduct toward these United States we have seen a plan of hostility pursued with unremitted constancy, equally disregarding the obligations of treaties and the rights of individuals. We have seen two embassies, formed for the purpose of mutual explanations and clothed with the most extensive and liberal powers, dismissed without recognition and even without a hearing. The Government of France has not only refused to repeal but has recently enjoined the observance of its former edict respecting merchandise of British fabric or produce the property of neutrals, by which the interruption of our lawful commerce and the spoliation of the property of our citizens have again received a public sanction. These facts indicate no change of system or disposition; they speak a more intelligible language than professions of solicitude to avoid a rupture, however ardently made. But if, after the repeated proofs we have given of a sincere desire for peace, these professions should be accompanied by insinuations implicating the integrity with which it has been pursued; if, neglecting and passing by the constitutional and authorized agents of the Government, they are made through the medium of individuals without public

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<sup>1</sup>Richardson, Messages, vol. 1, p. 275.

character or authority, and, above all, if they carry with them a claim to prescribe the political qualifications of the minister of the United States to be employed in the negotiation, they are not entitled to attention or consideration, but ought to be regarded as designed to separate the people from their Government and to bring about by intrigue that which open force could not effect.

We are of opinion with you, sir, that there has nothing yet been discovered in the conduct of France which can justify a relaxation of the means of defense adopted during the last session of Congress, the happy result of which is so strongly and generally marked. If the force by sea and land which the existing laws authorize should be judged inadequate to the public defense, we will perform the indispensable duty of bringing forward such other acts as will effectually call forth the resources and force of our country.

A steady adherence to this wise and manly policy, a proper direction of the noble spirit of patriotism which has arisen in our country, and which ought to be cherished and invigorated by every branch of the Government, will secure our liberty and independence against all open and secret attacks.

We enter on the business of the present session with an anxious solicitude for the public good, and shall bestow that consideration on the several objects pointed out in your communication which they respectively merit.

Your long and important services, your talents and firmness, so often displayed in the most trying times and most critical situations, afford a sure pledge of a zealous coöperation in every measure necessary to secure us justice and respect,

JOHN LAURANCE,

*President of the Senate pro tempore.*

DECEMBER 11, 1798.

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*Reply of the President<sup>1</sup>*

*December 12, 1798.*

*To the Senate of the United States:*

GENTLEMEN: I thank you for this address, so conformable to the spirit of our Constitution and the established character of the Senate of the United States for wisdom, honor, and virtue.

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<sup>1</sup>Richardson, *Messages*, vol. 1, p. 277.

I have seen no real evidence of any change of system or disposition in the French Republic toward the United States. Although the officious interference of individuals without public character or authority is not entitled to any credit, yet it deserves to be considered whether that temerity and impertinence of individuals affecting to interfere in public affairs between France and the United States, whether by their secret correspondence or otherwise, and intended to impose upon the people and separate them from their Government, ought not to be inquired into and corrected.

I thank you, gentlemen, for your assurances that you will bestow that consideration on the several objects pointed out in my communication which they respectively merit.

If I have participated in that understanding, sincerity, and constancy which have been displayed by my fellow-citizens and countrymen in the most trying times and critical situations, and fulfilled my duties to them, I am happy. The testimony of the Senate of the United States in my favor is an high and honorable reward which receives, as it merits, my grateful acknowledgments. My zealous cooperation in measures necessary to secure us justice and consideration may be always depended on.

JOHN ADAMS.

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*Address of the House of Representatives to John Adams, President of the United States*<sup>1</sup>

JOHN ADAMS,

*President of the United States.*

Desirous as we are that all causes of hostility may be removed by the amicable adjustment of national differences, we learn with satisfaction that in pursuance of our treaties with Spain and with Great Britain advances have been made for definitively settling the controversies relative to the southern and northeastern limits of the United States. With similar sentiments have we received your information that the proceedings under commissions authorized by the same treaties afford to a respectable portion of our citizens the prospect of a final decision on their claims for maritime injuries committed by subjects of those powers.

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<sup>1</sup>Richardson, Messages, vol. 1, p. 277.



It would be the theme of mutual felicitation were we assured of experiencing similar moderation and justice from the French Republic, between which and the United States differences have unhappily arisen; but this is denied us by the ultimate failure of the measures which have been taken by this Government toward an amicable adjustment of those differences and by the various inadmissible pretensions on the part of that nation.

The continuing in force the decree of January last, to which you have more particularly pointed our attention, ought of itself to be considered as demonstrative of the real intentions of the French Government. That decree proclaims a predatory warfare against the unquestionable rights of neutral commerce which with our means of defense our interest and our honor command us to repel. It therefore now becomes the United States to be as determined in resistance as they have been patient in suffering and condescending in negotiation.

While those who direct the affairs of France persist in the enforcement of decrees so hostile to our essential rights, their conduct forbids us to confide in any of their professions of amity.

As, therefore, the conduct of France hitherto exhibits nothing which ought to change or relax our measures of defense, the policy of extending and invigorating those measures demands our sedulous attention. The sudden and remarkable advantages which this country has experienced from a small naval armament sufficiently prove the utility of its establishment. As it respects the guarding of our coast, the protection of our trade, and the facility of safely transporting the means of territorial defense to every part of our maritime frontier, an adequate naval force must be considered as an important object of national policy. Nor do we hesitate to adopt the opinion that, whether negotiations with France are resumed or not, vigorous preparations for war will be alike indispensable.

In this conjuncture of affairs, while with you we recognize our abundant cause of gratitude to the Supreme Disposer of Events for the ordinary blessings of Providence, we regard as of high national importance the manifestation in our country of a magnanimous spirit of resistance to foreign domination. This spirit merits to be cherished and invigorated by every branch of Government as the estimable pledge of national prosperity and glory.

Disdaining a reliance on foreign protection, wanting no foreign guaranty of our liberties, resolving to maintain our national independence

against every attempt to despoil us of this inestimable treasure, we confide under Providence in the patriotism and energies of the people of these United States for defeating the hostile enterprises of any foreign power.

To adopt with prudent foresight such systematical measures as may be expedient for calling forth those energies wherever the national exigencies may require, whether on the ocean or on our own territory, and to reconcile with the proper security of revenue the convenience of mercantile enterprise, on which so great a proportion of the public resources depends, are objects of moment which shall be duly regarded in the course of our deliberations.

Fully as we accord with you in the opinion that the United States ought not to submit to the humiliation of sending another minister to France without previous assurances sufficiently determinate that he will be duly accredited, we have heard with cordial approbation the declaration of your purpose steadily to observe those maxims of humane and pacific policy by which the United States have hitherto been governed. While it is left with France to take the requisite steps for accommodation, it is worthy the Chief Magistrate of a free people to make known to the world that justice on the part of France will annihilate every obstacle to the restoration of a friendly intercourse, and that the Executive authority of this country will respect the sacred rights of embassy. At the same time, the wisdom and decision which have characterized your past Administration assure us that no illusory professions will seduce you into any abandonment of the rights which belong to the United States as a free and independent nation.

DECEMBER 13, 1798.

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*Reply of the President*<sup>1</sup>

DECEMBER 14, 1798.

*To the House of Representatives of the United States of America.*

GENTLEMEN: My sincere acknowledgments are due to the House of Representatives of the United States for this excellent address so consonant to the character of representatives of a great and free people. The judgment and feelings of a nation, I believe, were never more truly expressed by their representatives than those of our constituents

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<sup>1</sup>Richardson, *Messages*, vol. 1, p. 280.

by your decided declaration that with our means of defense our interest and honor command us to repel a predatory warfare against the unquestionable rights of neutral commerce; that it becomes the United States to be as determined in resistance as they have been patient in suffering and condescending in negotiation; that while those who direct the affairs of France persist in the enforcement of decrees so hostile to our essential rights their conduct forbids us to confide in any of their professions of amity; that an adequate naval force must be considered as an important object of national policy, and that, whether negotiations with France are resumed or not, vigorous preparations for war will be alike indispensable.

The generous disdain you so coolly and deliberately express of a reliance on foreign protection, wanting no foreign guaranty of our liberties, resolving to maintain our national independence against every attempt to despoil us of this inestimable treasure, will meet the full approbation of every sound understanding and exulting applauses from the heart of every faithful American.

I thank you, gentlemen, for your candid approbation of my sentiments on the subject of negotiation and for the declaration of your opinion that the policy of extending and invigorating our measures of defense and the adoption with prudent foresight of such systematical measures as may be expedient for calling forth the energies of our country wherever the national exigencies may require, whether on the ocean or on our own territory, will demand your sedulous attention.

At the same time, I take the liberty to assure you it shall be my vigilant endeavor that no illusory professions shall seduce me into any abandonment of the rights which belong to the United States as a free and independent nation.

JOHN ADAMS.

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### THIRD ANNUAL ADDRESS <sup>1</sup>

UNITED STATES, *December 3, 1799.*

*Gentlemen of the Senate and Gentlemen of the House of  
Representatives:*

Persevering in the pacific and humane policy which had been invariably professed and sincerely pursued by the Executive authority of the United States, when indications were made on the part of the

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<sup>1</sup>Richardson, *Messages*, vol. 1, pp. 289-290.

French Republic of a disposition to accommodate the existing differences between the two countries, I felt it to be my duty to prepare for meeting their advances by a nomination of ministers upon certain conditions which the honor of our country dictated, and which its moderation had given it a right to prescribe. The assurances which were required of the French Government previous to the departure of our envoys have been given through their minister of foreign relations, and I have directed them to proceed on their mission to Paris. They have full power to conclude a treaty, subject to the constitutional advice and consent of the Senate. The characters of these gentlemen are sure pledges to their country that nothing incompatible with its honor or interest, nothing inconsistent with our obligations of good faith or friendship to any other nation, will be stipulated.

JOHN ADAMS.

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*Address of the Senate to John Adams, President of the United States<sup>1</sup>*

THE PRESIDENT OF THE UNITED STATES:

When we reflect upon the uncertainty of the result of the late mission to France and upon the uncommon nature, extent, and aspect of the war now raging in Europe, which affects materially our relations with the powers at war, and which has changed the condition of their colonies in our neighborhood, we are of opinion with you that it would be neither wise nor safe to relax our measures of defense or to lessen any of our preparations to repel aggression.

SAMUEL LIVERMORE,

*President of the Senate pro tempore.*

DECEMBER 9, 1799.

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*Address of the House of Representatives to John Adams, President of the United States<sup>2</sup>*

THE PRESIDENT OF THE UNITED STATES:

Highly approving as we do the pacific and humane policy which has been invariably professed and sincerely pursued by the Executive au-

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<sup>1</sup>Richardson, *Messages*, vol. 1, p. 292.

<sup>2</sup>*Ibid.*, p. 293.

thority of the United States, a policy which our best interests enjoined, and of which honor has permitted the observance, we consider as the most unequivocal proof of your inflexible perseverance in the same well-chosen system your preparation to meet the first indications on the part of the French Republic of a disposition to accommodate the existing differences between the two countries by a nomination of ministers, on certain conditions which the honor of our country unquestionably dictated, and which its moderation had certainly given it a right to prescribe. When the assurances thus required of the French Government, previous to the departure of our envoys, had been given through their minister of foreign relations, the direction that they should proceed on their mission was on your part a completion of the measure, and manifests the sincerity with which it was commenced. We offer up our fervent prayers to the Supreme Ruler of the Universe for the success of their embassy, and that it may be productive of peace and happiness to our common country. The uniform tenor of your conduct through a life useful to your fellow-citizens and honorable to yourself gives a sure pledge of the sincerity with which the avowed objects of the negotiation will be pursued on your part, and we earnestly pray that similar dispositions may be displayed on the part of France. The differences which unfortunately subsist between the two nations can not fail in that event to be happily terminated. To produce this end, to all so desirable, firmness, moderation, and union at home constitute, we are persuaded, the surest means. The character of the gentlemen you have deputed, and still more the character of the Government which deposes them, are safe pledges to their country that nothing incompatible with its honor or interest, nothing inconsistent with our obligations of good faith or friendship to any other nation, will be stipulated.

We learn with pleasure that our citizens, with their property, trading to those ports of St. Domingo with which commercial intercourse has been renewed have been duly respected, and that privateering from those ports has ceased.

DECEMBER 9, 1799.

*Reply of the President<sup>1</sup>*

UNITED STATES, December 10, 1799.

*Gentlemen of the House of Representatives:*

As long as we maintain with harmony and affection the honor of our country consistently with its peace, externally and internally, while that is attainable, or in war when that becomes necessary, assert its real independence and sovereignty, and support the constitutional energies and dignity of its Government, we may be perfectly sure, under the smiles of Divine Providence, that we shall effectually promote and extend our national interest and happiness.

JOHN ADAMS.

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FOURTH ANNUAL ADDRESS<sup>2</sup>

UNITED STATES, November 22, 1800.

*Gentlemen of the Senate and Gentlemen of the House of Representatives:*

The envoys extraordinary and ministers plenipotentiary from the United States to France were received by the First Consul with the respect due to their character, and three persons with equal powers were appointed to treat with them. Although at the date of the last official intelligence the negotiation had not terminated, yet it is to be hoped that our efforts to effect an accommodation will at length meet with a success proportioned to the sincerity with which they have been so often repeated.

While our best endeavors for the preservation of harmony with all nations will continue to be used, the experience of the world and our own experience admonish us of the insecurity of trusting too confidently to their success. We can not, without committing a dangerous imprudence, abandon those measures of self-protection which are adapted to our situation and to which, notwithstanding our pacific policy, the violence and injustice of others may again compel us to resort. While our vast extent of seacoast, the commercial and agricultural habits of our people, the great capital they will continue to trust

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<sup>1</sup>Richardson, Messages, vol. 1, p. 296.<sup>2</sup>Ibid., p. 305.

on the ocean, suggest the system of defense which will be most beneficial to ourselves, our distance from Europe and our resources for maritime strength will enable us to employ it with effect. Seasonable and systematic arrangements, so far as our resources will justify, for a navy adapted to defensive war, and which may in case of necessity be quickly brought into use, seem to be as much recommended by a wise and true economy as by a just regard for our future tranquillity, for the safety of our shores, and for the protection of our property committed to the ocean.

The present Navy of the United States, called suddenly into existence by a great national exigency, has raised us in our own esteem, and by the protection afforded to our commerce has effected to the extent of our expectations the objects for which it was created.

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*Address of the House of Representatives to John Adams, President of the United States<sup>1</sup>*

JOHN ADAMS,

*President of the United States:*

The Constitution of the United States having confided the management of our foreign negotiations to the control of the Executive power, we cheerfully submit to its decisions on this important subject; and in respect to the negotiations now pending with France we sincerely hope that the final result may prove as fortunate to our country as the most ardent mind can wish.

So long as a predatory war is carried on against our commerce we should sacrifice the interests and disappoint the expectations of our constituents should we for a moment relax that system of maritime defense which has resulted in such beneficial effects. At this period it is confidently believed that few persons can be found within the United States who do not admit that a navy, well organized, must constitute the natural and efficient defense of this country against all foreign hostility.

NOVEMBER 26, 1800.

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<sup>1</sup>Richardson, Messages, vol. 1, p. 310.

*Reply of the President<sup>1</sup>*

WASHINGTON, November 27, 1800.

*Mr. Speaker and Gentlemen of the House of Representatives:*

With you, gentlemen, I sincerely hope that the final result of the negotiations now pending with France may prove as fortunate to our country as they have been commenced with sincerity and prosecuted with deliberation and caution. With you I cordially agree that so long as a predatory war is carried on against our commerce we should sacrifice the interests and disappoint the expectations of our constituents should we for a moment relax that system of maritime defense which has resulted in such beneficial effects. With you I confidently believe that few persons can be found within the United States who do not admit that a navy, well organized, must constitute the natural and efficient defense of this country against all foreign hostility.

JOHN ADAMS.

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<sup>1</sup>Richardson, Messages, vol. 1, p. 312.





## Acts of Congress

### CHAP. XLVIII.—*An Act more effectually to protect the Commerce and Coasts of the United States.*<sup>1</sup>

WHEREAS armed vessels sailing under authority or pretense of authority from the Republic of France, have committed depredations on the commerce of the United States, and have recently captured the vessels and property of citizens thereof, on and near the coasts, in violation of the law of nations, and treaties between the United States and the French nation. Therefore

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That it shall be lawful for the President of the United States, and he is hereby authorized to instruct and direct the commanders of the armed vessels belonging to the United States to seize, take and bring into any port of the United States, to be proceeded against according to the laws of nations, any such armed vessel which shall have committed or which shall be found hovering on the coasts of the United States, for the purpose of committing depredations on the vessels belonging to citizens thereof;—and also to retake any ship or vessel, of any citizen or citizens of the United States which may have been captured by any such armed vessel.

APPROVED, May 28, 1798.

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### CHAP. LIII.—*An Act to suspend the commercial intercourse between the United States and France, and the dependencies thereof.*<sup>2</sup>

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That no ship or vessel, owned, hired, or employed, wholly or in part, by any person resident within the United States, and which shall depart therefrom after the first day of July next, shall be allowed to proceed directly, or from any intermediate port or place, to any port or place within the territory of the French Republic, or the dependencies thereof, or to any place in the West Indies, or elsewhere under the ac-

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<sup>1</sup>Statutes at Large, vol. 1, p. 541

<sup>2</sup>*Ibid.*, p. 565.

known government of France, or shall be employed in any traffic or commerce, with, or for any person resident within the jurisdiction, or under the authority of the French Republic. And if any ship or vessel, in any voyage thereafter commencing, and before her return within the United States, shall be voluntarily carried, or suffered to proceed to any French port or place as aforesaid, or shall be employed as aforesaid, contrary to the intent hereof, every such ship or vessel together with her cargo shall be forfeited, and shall accrue, the one half to the use of the United States, and the other half to the use of any person or persons, citizens of the United States, who will inform and prosecute for the same; and shall be liable to be seized, prosecuted and condemned in any circuit or district court of the United States which shall be holden within or for the district where the seizure shall be made.

SEC. 2. *And be it further enacted*, That after the first day of July next, no clearance for a foreign voyage shall be granted to any ship or vessel, owned, hired, or employed, wholly or in part, by any person resident within the United States, until a bond shall be given to the use of the United States, wherein the owner or employer, if usually resident or present, where the clearance shall be required, and otherwise his agent or factor, and the master or captain of such ship or vessel for the intended voyage, shall be parties, in a sum equal to the value of the ship or vessel, and her cargo, and shall find sufficient surety or sureties, to the amount of one half the value thereof, with condition that the same shall not, during her intended voyage or before her return within the United States, proceed, or be carried, directly or indirectly, to any port or place within the territory of the French Republic, or the dependencies thereof, or any place in the West Indies, or elsewhere, under the acknowledged government of France, unless by distress of weather, or want of provisions, or by actual force and violence, to be fully proved and manifested before the acquittance of such bond; and that such vessel is not, and shall not be employed during her intended voyage, or before her return, as aforesaid, in any traffic or commerce with or for any person resident within the territory of that republic, or in any of the dependencies thereof.

SEC. 3. *And be it further enacted*, That from and after due notice of the passing of this act, no French ship or vessel, armed or unarmed, commissioned by or for, or under the authority of the French Republic, or owned, fitted, hired or employed by any person resident within the

territory of that republic, or any of the dependencies thereof, or sailing or coming therefrom, excepting any vessel to which the President of the United States shall grant a passport, which he is hereby authorized to grant in all cases where it shall be requisite for the purposes of any political or national intercourse, shall be allowed an entry, or to remain within the territory of the United States, unless driven there by distress of weather, or in want of provisions. And if contrary to the intent hereof any such ship or vessel shall be found within the jurisdictional limits of the United States, not being liable to seizure for any other cause, the company having charge thereof shall be required to depart and carry away the same, avoiding all unnecessary delay; and if they shall, notwithstanding, remain, it shall be the duty of the collector of the district, wherein, or nearest to which, such ship or vessel shall be, to seize and detain the same, at the expense of the United States: Provided, that ships or vessels which shall be *bona fide* the property of, or hired, or employed by citizens of the United States, shall be excepted from this prohibition until the first day of December next, and no longer: And provided that in the case of vessels hereby prohibited, which shall be driven by distress of weather, or the want of provisions into any port or place of the United States, they may be suffered to remain under the custody of the collector there, or nearest thereto, until suitable repairs or supplies can be obtained, and as soon as may be thereafter shall be required and suffered to depart: but no part of the lading of such vessel shall be taken out or disposed of, unless by the special permit of such collector, or to defray the unavoidable expense of such repairs or supplies.

SEC. 4. *And be it further enacted*, That this act shall continue and be in force until the end of the next session of Congress, and no longer.

SEC. 5. *Provided, and be it further enacted*, That if, before the next session of Congress, the government of France, and all persons acting by or under their authority, shall clearly disavow, and shall be found to refrain from the aggressions, depredations and hostilities which have been, and are by them encouraged and maintained against the vessels and other property of the citizens of the United States, and against their national rights and sovereignty, in violation of the faith of treaties, and the laws of nations, and shall thereby acknowledge the just claims of the United States to be considered as in all respects neutral, and unconnected in the present European war, if the same

shall be continued, then and thereupon it shall be lawful for the President of the United States, being well ascertained of the premises, to remit and discontinue the prohibitions and restraints hereby enacted and declared; and he shall be, and is hereby authorized to make proclamation thereof accordingly: Provided, that nothing in this act contained, shall extend to any ship or vessel to which the President of the United States shall grant a permission to enter or clear; which permission he is hereby authorized to grant to vessels which shall be solely employed in any purpose of political or national intercourse, or to aid the departure of any French persons, with their goods and effects, who shall have been resident within the United States, when he may think it requisite.

APPROVED, June 13, 1798.

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CHAP. LX.—*An Act to authorize the defence of the Merchant Vessels of the United States against French depredations.*<sup>1</sup>

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the commander and crew of any merchant vessel of the United States, owned wholly by a citizen or citizens thereof, may oppose and defend against any search, restraint or seizure, which shall be attempted upon such vessel, or upon any other vessel, owned, as aforesaid, by the commander or crew of any armed vessel sailing under French colours, or acting, or pretending to act, by, or under the authority of the French republic; and may repel by force any assault or hostility which shall be made or committed, on the part of such French, or pretended French vessel, pursuing such attempt, and may subdue and capture the same; and may also retake any vessel owned, as aforesaid, which may have been captured by any vessel sailing under French colours, or acting, or pretending to act, by or under authority from the French republic.

SEC. 2. *And be it further enacted,* That whenever the commander and crew of any merchant vessel of the United States shall subdue and capture any French, or pretended French armed vessel, from which an assault or other hostility shall be first made, as aforesaid, such armed vessel with her tackle, appurtenances, ammunition and lading, shall accrue, the one half to the owner or owners of such

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<sup>1</sup>Statutes at Large, vol. I, p. 572.

merchant vessel of the United States, and the other half to the captors: And being brought into any port of the United States, shall and may be adjudged and condemned to their use, after due process and trial, in any court of the United States, having admiralty jurisdiction, and which shall be holden for the district into which such captured vessel shall be brought; and the same court shall thereupon order a sale and distribution thereof, accordingly, and at their discretion; saving any agreement, which shall be between the owner or owners, and the commander and crew of such merchant vessel. In all cases of recapture of vessels belonging to citizens of the United States, by any armed merchant vessel, aforesaid, the said vessels, with their cargoes, shall be adjudged to be restored, and shall, by decree of such courts as have jurisdiction, in the premises, be restored to the former owner or owners, he or they paying for salvage, not less than one eighth, nor more than one half of the true value of the said vessels and cargoes, at the discretion of the court; which payments shall be made without any deduction whatsoever.

SEC. 3. *And be it further enacted*, That after notice of this act, at the several custom-houses, no armed merchant vessel of the United States shall receive a clearance or permit, or shall be suffered to depart therefrom, unless the owner or owners, and the master or commander of such vessel for the intended voyage, shall give bond, to the use of the United States, in a sum equal to double the value of such vessel, with condition, that such vessel shall not make or commit any depredation, outrage, unlawful assault, or unprovoked violence upon the high seas, against the vessel of any nation in amity with the United States; and that the guns, arms and ammunition of such vessel shall be returned within the United States, or otherwise accounted for, and shall not be sold or disposed of in any foreign port or place; and that such owner or owners, and the commander and crew of such merchant vessel shall, in all things, observe and perform such further instructions in the premises, as the President of the United States shall establish and order, for the better government of the armed merchant vessels of the United States.

SEC. 4. *And be it further enacted*, That the President of the United States shall be, and he is hereby authorized to establish and order suitable instructions to, and for, the armed merchant vessels of the United States, for the better governing and restraining the commanders and crews who shall be employed therein, and to prevent any out-

rage, cruelty or injury which they may be disposed to commit; a copy of which instructions shall be delivered by the collector of the customs to the commander of such vessel, when he shall give bond, as aforesaid. And it shall be the duty of the owner or owners, and commander and crew, for the time being, of such armed merchant vessel of the United States, at each return to any port of the United States, to make report to the collector thereof of any rencounter which shall have happened with any foreign vessel, and of the state of the company and crew of any vessel which they shall have subdued or captured; and the persons of such crew or company shall be delivered to the care of such collector, who, with the aid of the marshal of the same district, or the nearest military officer of the United States, or of the civil or military officers of any state, shall take suitable care for the restraint, preservation and comfort of such persons, at the expense of the United States, until the pleasure of the President of the United States shall be known concerning them.

SEC. 5. *And be it further enacted*, That this act shall continue and be in force for the term of one year, and until the end of the next session of Congress thereafter.

SEC. 6. *Provided, and be it further enacted*, That whenever the government of France, and all persons acting by, or under their authority, shall disavow, and shall cause the commanders and crews of all armed French vessels to refrain from the lawless depredations and outrages hitherto encouraged and authorized by that government against the merchant vessel[s] of the United States, and shall cause the laws of nations to be observed by the said armed French vessels, the President of the United States shall be, and he is hereby authorized to instruct the commanders and crews of the merchant vessels of the United States to submit to any regular search by the commanders or crews of French vessels, and to refrain from any force or capture to be exercised by virtue hereof.

APPROVED, June 25, 1798.

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CHAP. LXII.—*An Act in addition to the act more effectually to protect the Commerce and Coasts of the United States.*<sup>1</sup>

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all

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<sup>1</sup>Statutes at Large, vol. I, p. 574.

such armed vessels as may be seized, taken and brought into any port of the United States, in pursuance of the act, entitled "An act more effectually to protect the commerce and coasts of the United States," with the apparel, guns and appurtenances of such vessels, and the goods and effects, which shall be found on board the same, shall be liable to forfeiture and condemnation, and may be libelled and proceeded against in the district courts of the United States, for the district into which the same may be brought: *Provided*, that such forfeiture shall not extend to any goods or effects, the property of any citizen or person resident within the United States, and which shall have been before taken by the crew of such captured vessel.

SEC. 2. *And be it further enacted*, That whenever any vessel the property of, or employed by any citizen of the United States, or person resident therein, or any goods or effects belonging to any such citizen or resident shall be re-captured by any public armed vessel of the United States, the same shall be restored to the former owner or owners, upon due proof, he or they paying and allowing, as and for salvage to the recaptors, one eighth part of the value of such vessel, goods and effects, free of all deductions and expenses.

SEC. 3. *And be it further enacted*, That whenever any armed vessel, captured and condemned, as aforesaid, shall have been of superior or equal force to the public armed vessel of the United States by which such capture shall have been made, the forfeiture shall be and accrue wholly to the captors: and in other cases, one half thereof shall be to the use of the United States, and the residue to the captors. And all salvage which shall be allowed and recovered upon any vessel, goods or effects re-captured, and to be restored, as aforesaid, shall belong wholly to the officers and crew of the public armed vessel of the United States by which such re-capture shall be made: and the court before whom any condemnation shall be had, as aforesaid, shall and may order the sale of the vessel, goods and effects condemned, to be made at public auction, upon due notice by the marshal of the district in which the same shall be: and all expenses of condemnation and sale, being deducted from the proceeds, the part thereof which shall accrue to the United States, shall be paid into the public treasury, and the residue, and all allowances of salvage, as aforesaid, shall be distributed to, and among the officers and crews concerned therein, in the proportions which the President of the United States shall direct.



SEC. 4. *And be it further enacted*, That it shall be lawful for the President of the United States, to cause the officers and crews of the vessels so captured and hostile persons found on board any vessel, which shall be re-captured, as aforesaid, to be confined in any place of safety within the United States, in such manner as he may think the public interest may require, and all marshals and other officers of the United States are hereby required to execute such orders as the President may issue for the said purpose.

APPROVED, June 28, 1798.

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CHAP. LXVI.—*An Act respecting Alien Enemies.*<sup>1</sup>

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That whenever there shall be a declared war between the United States and any foreign nation or government, or any invasion or predatory incursion shall be perpetrated, attempted, or threatened against the territory of the United States, by any foreign nation or government, and the President of the United States shall make public proclamation of the event, all natives, citizens, denizens, or subjects of the hostile nation or government, being males of the age of fourteen years and upwards, who shall be within the United States, and not actually naturalized, shall be liable to be apprehended, restrained, secured and removed, as alien enemies. And the President of the United States shall be, and he is hereby authorized, in any event, as aforesaid, by his proclamation thereof, or other public act, to direct the conduct to be observed, on the part of the United States, towards the aliens who shall become liable, as aforesaid; the manner and degree of the restraint to which they shall be subject, and in what cases, and upon what security their residence shall be permitted, and to provide for the removal of those, who, not being permitted to reside within the United States, shall refuse or neglect to depart therefrom; and to establish any other regulations which shall be found necessary in the premises and for the public safety: Provided, that aliens resident within the United States, who shall become liable as enemies, in the manner aforesaid, and who shall not be chargeable with actual hostility, or other crime against the public safety, shall be allowed, for the recovery, dis-

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<sup>1</sup>Statutes at Large, vol. I, p. 577.

posal, and removal of their goods and effects, and for their departure, the full time which is, or shall be stipulated by any treaty, where any shall have been between the United States, and the hostile nation or government, of which they shall be natives, citizens, denizens or subjects: and where no such treaty shall have existed, the President of the United States may ascertain and declare such reasonable time as may be consistent with the public safety, and according to the dictates of humanity and national hospitality.

SEC. 2. *And be it further enacted*, That after any proclamation shall be made as aforesaid, it shall be the duty of the several courts of the United States, and of each state, having criminal jurisdiction, and of the several judges and justices of the courts of the United States, and they shall be, and are hereby respectively, authorized upon complaint, against any alien or alien enemies, as aforesaid, who shall be resident and at large within such jurisdiction or district, to the danger of the public peace or safety, and contrary to the tenor or intent of such proclamation, or other regulations which the President of the United States shall and may establish in the premises, to cause such alien or aliens to be duly apprehended and convened before such court, judge or justice; and after a full examination and hearing on such complaint, and sufficient cause therefor appearing, shall and may order such alien or aliens to be removed out of the territory of the United States, or to give sureties of their good behaviour, or to be otherwise restrained. conformably to the proclamation or regulations which shall and may be established as aforesaid, and may imprison, or otherwise secure such alien or aliens, until the order which shall and may be made, as aforesaid, shall be performed.

SEC. 3. *And be it further enacted*, That it shall be the duty of the marshal of the district in which any alien enemy shall be apprehended, who by the President of the United States, or by order of any court, judge or justice, as aforesaid, shall be required to depart, and to be removed, as aforesaid, to provide therefor, and to execute such order, by himself or his deputy, or other discreet person or persons to be employed by him, by causing a removal of such alien out of the territory of the United States; and for such removal the marshal shall have the warrant of the President of the United States, or of the court, judge or justice ordering the same, as the case may be.

APPROVED, July 6, 1798.

CHAP. LXVII.—*An Act to declare the treaties heretofore concluded with France, no longer obligatory on the United States.*<sup>1</sup>

WHEREAS the treaties concluded between the United States and France have been repeatedly violated on the part of the French government; and the just claims of the United States for reparation of the injuries so committed have been refused, and their attempts to negotiate an amicable adjustment of all complaints between the two nations, have been repelled with indignity: And whereas, under authority of the French government, there is yet pursued against the United States, a system of predatory violence, infracting the said treaties, and hostile to the rights of a free and independent nation:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the United States are of right freed and exonerated from the stipulations of the treaties, and of the consular convention, heretofore concluded between the United States and France; and that the same shall not henceforth be regarded as legally obligatory on the government or citizens of the United States.

APPROVED, July 7, 1798.

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CHAP. LXVIII.—*An Act further to protect the Commerce of the United States.*<sup>2</sup>

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States shall be, and he is hereby authorized to instruct the commanders of the public armed vessels which are, or which shall be employed in the service of the United States, to subdue, seize and take any armed French vessel, which shall be found within the jurisdictional limits of the United States, or elsewhere, on the high seas, and such captured vessel, with her apparel, guns and appurtenances, and the goods or effects which shall be found on board the same, being French property, shall be brought within some port of the United States, and shall be duly proceeded against and condemned as forfeited; and shall accrue and be distributed, as by law is or shall be provided respecting the captures which shall be made by the public armed vessels of the United States.

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<sup>1</sup>Statutes at Large, vol. I, p. 578.

<sup>2</sup>*Ibid.*, p. 578.

SEC. 2. *And be it further enacted*, That the President of the United States shall be, and he is hereby authorized to grant to the owners of private armed ships and vessels of the United States, who shall make application therefor, special commissions in the form which he shall direct, and under the seal of the United States; and such private armed vessels, when duly commissioned, as aforesaid, shall have the same license and authority for the subduing, seizing and capturing any armed French vessel, and for the recapture of the vessels, goods and effects of the people of the United States, as the public armed vessels of the United States may by law have; and shall be, in like manner, subject to such instructions as shall be ordered by the President of the United States, for the regulation of their conduct. And the commissions which shall be granted, as aforesaid, shall be revocable at the pleasure of the President of the United States.

SEC. 3. *Provided, and be it further enacted*, That every person intending to set forth and employ an armed vessel, and applying for a commission, as aforesaid, shall produce in writing the name, and a suitable description of the tonnage and force of the vessel, and the name and place of residence of each owner concerned therein, the number of the crew and the name of the commander, and the two officers next in rank, appointed for such vessel; which writing shall be signed by the person or persons making such application, and filed with the Secretary of State, or shall be delivered to any other officer or person who shall be employed to deliver out such commissions, to be by him transmitted to the Secretary of State.

SEC. 4. *And provided, and be it further enacted*, That before any commission, as aforesaid, shall be issued, the owner or owners of the ship or vessel for which the same shall be requested, and the commander thereof, for the time being, shall give bond to the United States, with at least two responsible sureties, not interested in such vessel, in the penal sum of seven thousand dollars; or if such vessel be provided with more than one hundred and fifty men, then in the penal sum of fourteen thousand dollars; with condition that the owners, and officers, and crews who shall be employed on board of such commissioned vessel, shall and will observe the treaties and laws of the United States, and the instructions which shall be given them for the regulation of their conduct: And will satisfy all damages and injuries which shall be done or committed contrary to the tenor thereof,

by such vessel, during her commission, and to deliver up the same when revoked by the President of the United States.

SEC. 5. *And be it further enacted*, That all armed French vessels, together with their apparel, guns and appurtenances, and any goods or effects which shall be found on board the same, being French property, and which shall be captured by any private armed vessel or vessels of the United States, duly commissioned, as aforesaid, shall be forfeited, and shall accrue to the owners thereof, and the officers and crews by whom such captures shall be made; and on due condemnation had, shall be distributed according to any agreement which shall be between them; or in failure of such agreement, then by the discretion of the court before whom such condemnation shall be.

SEC. 6. *And be it further enacted*, That all vessels, goods and effects, the property of any citizen of the United States, or person resident therein, which shall be recaptured, as aforesaid, shall be restored to the lawful owners, upon payment by them, respectively, of a just and reasonable salvage, to be determined by the mutual agreement of the parties concerned, or by the decree of any court of the United States having maritime jurisdiction according to the nature of each case: *Provided*, that such allowance shall not be less than one eighth, or exceeding one half of the full value of such recapture, without any deduction. And such salvage shall be distributed to and among the owners, officers and crews of the private armed vessel or vessels entitled thereto, according to any agreement which shall be between them; or in case of no agreement, then by the decree of the court who shall determine upon such salvage.

SEC. 7. *And be it further enacted*, That before breaking bulk of any vessel which shall be captured, as aforesaid, or other disposal or conversion thereof, or of any articles which shall be found on board the same, such capture shall be brought into some port of the United States, and shall be libelled and proceeded against before the district court of the same district; and if after a due course of proceedings, such capture shall be decreed as forfeited in the district court, or in the circuit court of the same district, in the case of any appeal duly allowed, the same shall be delivered to the owners and captors concerned therein, or shall be publicly sold by the marshal of the same court, as shall be finally decreed and ordered by the court. And the same court, who shall have final jurisdiction of any libel or complaint of any capture, as aforesaid, shall and may decree restitution,

in whole or in part, when the capture and restraint shall have been made without just cause, as aforesaid; and if made without probable cause, or otherwise unreasonably, may order and decree damages and costs to the party injured, and for which the owners, officers and crews of the private armed vessel or vessels by which such unjust capture shall have been made, and also such vessel or vessels shall be answerable and liable.

SEC. 8. *And be it further enacted*, That all French persons and others, who shall be found acting on board any French armed vessel, which shall be captured, or on board of any vessel of the United States, which shall be recaptured, as aforesaid, shall be reported to the collector of the port in which they shall first arrive, and shall be delivered to the custody of the marshal, or of some civil or military officer of the United States, or of any state in or near such port; who shall take charge for their safe keeping and support, at the expense of the United States.

APPROVED, July 9, 1798.

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CHAP. X.—*An Act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof.*<sup>1</sup>

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all commercial intercourse between any person or persons resident within the United States or under their protection, and any person or persons resident within the territories of the French Republic, or any of the dependencies thereof, shall be, and from and after the second day of March next, is hereby prohibited and farther suspended, excepting only in the cases hereinafter provided. And any ship or vessel, owned, hired, or employed wholly or in part by any person or persons resident within the United States, or any citizen or citizens thereof resident elsewhere, and sailing therefrom after that day, which contrary to the intent hereof, shall be voluntarily carried, or shall be destined or permitted to proceed, or shall be sold, bartered, entrusted or transferred, for the purpose that she may proceed, whether directly or from any intermediate port or place, to any port or place within the territories of that Republic, or any of the dependencies thereof; or

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<sup>1</sup>Statutes at Large, vol. II, p. 7.

shall be engaged in any traffic or commerce, by or for any person resident within the territories of that Republic, or within any of the dependencies thereof; and also any cargo which shall be found on board of such ship or vessel, when detected and interrupted in such unlawful purpose, or at her return from such voyage to the United States, shall be wholly forfeited, and may be seized and condemned in any court of the United States, having competent jurisdiction.

SEC. 2. *And be it further enacted*, That excepting for foreign ships or vessels owned, hired, and employed by persons permanently residing in Europe, and commanded and wholly navigated by foreigners, no clearance for a foreign voyage shall be granted to any ship or vessel whatever, until the owner or the employer for the voyage, or if not resident within the district where the clearance shall be required, his factor or agent, with the master and one or more sufficient surety or sureties, to the satisfaction of the collector of the district, shall give bond to the United States, such owner, employer, or factor, with the master, in a sum equal to the value of the vessel, and of one-third of her cargo; and such surety or sureties in a like sum, when it shall not exceed ten thousand dollars; and if it shall exceed, then in that sum, with condition that the ship or vessel for which a clearance shall be required, is actually destined, and shall proceed to some port or place without the limits or jurisdiction of the French Republic, or any of the dependencies thereof, and during the intended voyage shall not be voluntarily carried, or permitted to proceed or sold, entrusted or transferred, with the purpose that she may proceed whether directly, or from any intermediate port or place, to any port or place within the territories of that Republic, or any of the dependencies thereof; and shall not, at any such port or place, voluntarily deliver or unlade any part of such cargo; and if compelled by distress of weather, or taken by force into any such port or place, will not there receive on board of such ship or vessel any goods, produce, or merchandise, other than necessary sea stores; and generally, that such ship or vessel shall not be employed in any traffic or commerce with or for any person resident within the territory of the French Republic, or any of the dependencies thereof.

SEC. 3. *Provided, and be it further enacted*, That when any ship or vessel which shall obtain a clearance for a foreign voyage, after a bond shall be given as aforesaid, shall be compelled by distress of

weather, or other casualty endangering the safety of such ship or vessel, or of the mariners on board the same, or shall be taken by any armed vessel, or other superior force, into any port or place within the territories of the French Republic, or any of the dependencies thereof, and shall there necessarily unlade and deliver, or shall be deprived of any cargo then on board, then, and in such case, the master or other person having charge of such ship or vessel, may receive compensation or payment in bills of exchange, or in money or bullion, for such cargo, but not otherwise, and shall not be understood thereby to contravene this law, or to incur a forfeiture of the said bond.

SEC. 4. *And be it further enacted*, That no ship or vessel coming from any port or place within the territories of the French Republic, or any of the dependencies thereof, whether with or without a cargo, or from any other port or place, with a cargo on board obtained for, or laden on board of such vessel at any port or place within the said territories or dependencies, which shall arrive within the limits of the United States after the said second day of March next, shall be admitted to an entry with the collector of any district; and each and every such ship or vessel which shall arrive as aforesaid, having on board any goods, wares or merchandise, destined to be delivered within the United States, contrary to the intent of this act, or which shall have otherwise contravened the same, together with the cargo which shall be found on board, shall be forfeited, and may be seized and condemned in any court of the United States having competent jurisdiction: *Provided*, that nothing herein contained shall be construed to prohibit the entry of any vessel having a passport granted under the authority of the French Republic, and solely employed for purposes of political or national intercourse with the government of the United States, and not in any commercial intercourse, and which shall be received, and permitted by the President of the United States to remain within the same: *And provided also*, that until the first day of August next, and no longer, any ship or vessel, wholly owned or employed by a foreigner, other than any person resident in France, or in any of the dependencies of the French Republic, and which coming therefrom shall be destined to the United States, and shall arrive within the same, not having otherwise contravened this act, shall be required and permitted to depart therefrom, and in case she shall accordingly depart, without any unreasonable delay, and without delivery, or at-



tempting to deliver, any cargo or lading within the United States, such ship or vessel, or any cargo which may be on board the same, shall not be liable to the forfeiture aforesaid.

SEC. 5. *And be it further enacted*, That if any ship or vessel, coming from any port or place within the territories of the French Republic, or any of the dependencies thereof, or with any cargo there obtained on board, but not destined to any port or place within the United States, shall be compelled by distress of weather, or other necessity, to put into any port or place within the limits of the United States, such ship or vessel shall be there hospitably received in the manner prescribed by the act, intituled "An act to regulate the collection of duties on imports and tonnage"; and shall be permitted to make such repairs, and to obtain such supplies as shall be necessary to enable her to proceed according to her destination; and such repairs and supplies being obtained, shall be thereafter required and permitted to depart. But if such ship or vessel shall not conform to the regulations prescribed by the act last mentioned, or shall unlade any part of her cargo, or shall take on board any cargo or supplies whatever, without the permit of the collector of the district previously obtained therefor, or shall refuse, or unreasonably delay to depart from and out of the United States, after having received a written notice to depart, which such collector may, and shall give, as soon as such ship or vessel shall be fit for sea; or having departed shall return to the United States, not being compelled thereto by further distress or necessity, in each and every such case, such ship or vessel and her cargo shall be forfeited and may be seized, and condemned in any court of the United States having competent jurisdiction.

SEC. 6 *And be it further enacted*, That at any time after the passing of this act, it shall be lawful for the President of the United States, by his order to remit and discontinue for the time being, whenever he shall deem it expedient, and for the interest of the United States, all or any of the restraints and prohibitions imposed by this act, in respect to the territories of the French Republic, or to any island, port or place belonging to the said Republic, with which in his opinion a commercial intercourse may be safely renewed; and also it shall be lawful for the President of the United States, whenever he shall afterwards deem it expedient, to revoke such order, and hereby to re-establish such restraints and prohibitions. And the President of the

United States shall be, and he is hereby authorized, to make proclamation thereof accordingly.

SEC. 7. *And be it further enacted*, That the whole of the island of Hispaniola shall for the purposes of this act be considered as a dependency of the French Republic: *Provided*, that nothing herein contained shall be deemed to repeal or annul in any part, the order or proclamation of the President of the United States, heretofore issued for permitting commercial intercourse with certain ports of that island.

SEC. 8. *And be it further enacted*, That it shall be lawful for the President of the United States, to give instructions to the public armed vessels of the United States, to stop and examine any ship or vessel of the United States on the high sea, which there may be reason to suspect to be engaged in any traffic or commerce contrary to this act, and if upon examination, it shall appear that such ship or vessel is bound or sailing to, or from any port or place, contrary to the true intent and meaning of this act, it shall be the duty of the commander of such public armed vessel, to seize every ship or vessel engaged in such illicit commerce, and send the same to the nearest convenient port of the United States, to be there prosecuted in due course of law, and held liable to the penalties and forfeitures provided by this act.

SEC. 9. *And be it further enacted*, That all penalties and forfeitures incurred by force of this act, shall, and may be examined, mitigated and remitted in like manner, and under the like conditions, regulations and restrictions, as are prescribed, authorized and directed by the act, intituled "An act to provide for mitigating, or remitting, the forfeitures, penalties and disabilities accruing in certain cases therein mentioned"; and all penalties and forfeitures, which may be recovered in pursuance of this act in consequence of any seizure made by the commander of any public armed vessel of the United States, shall be distributed according to the rules prescribed by the act, intituled "An act for the government of the navy of the United States"; and all other penalties arising under this act, and which may be recovered, shall be distributed and accounted for in the manner prescribed by the act, intituled "An act to regulate the collection of duties on imports and tonnage."

SEC. 10. *And be it further enacted*, That nothing contained in this act shall extend to any ship or vessel to which the President of the

United States shall grant a permission to enter and clear ; provided such ship or vessel shall be solely employed, pursuant to such permission, for purposes of national intercourse ; and shall not be permitted to proceed with, or to bring to the United States any cargo or lading whatever other than necessary sea-stores.

SEC. 11. *And be it further enacted*, That the act, intituled "An act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof," shall be, and is hereby continued and shall be taken to be in force in respect to all offences, which shall have been committed against the same, before the expiration thereof ; and to the intent that all seizures, forfeitures and penalties arising upon such offences, may be had, sued for, prosecuted and recovered, any limitation of the said act to the contrary hereof notwithstanding.

SEC. 12. *And be it further enacted*, That this act shall be and remain in force until the third day of March, one thousand eight hundred and one: *Provided, however*, the expiration thereof shall not prevent or defeat any seizure, or prosecution for a forfeiture incurred under this act, and during the continuance thereof.

APPROVED, February 27, 1800.

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CHAP. XXVII.—*An Act to continue in force the act intituled "An act to authorize the defence of the merchant vessels of the United States against French depredations."*<sup>1</sup>

*Bt it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the act passed on the twenty-fifth day of June, one thousand seven hundred and ninety-eight, intituled "An act to authorize the defence of the merchant vessels of the United States against French depredations," excepting such parts of the said act as relate to salvage in cases of recapture, shall continue and be in force for and during the term of one year, and from thence to the end of the next session of Congress thereafter, and no longer.

APPROVED, April 22, 1800.

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<sup>1</sup>Statutes at Large, vol. II, p. 39.

## Proclamations

*Proclamation of June 26, 1799<sup>1</sup>*

BY THE PRESIDENT OF THE UNITED STATES OF  
AMERICA

### A PROCLAMATION

Whereas by an act of the Congress of the United States passed the 9th day of February last, entitled "An act further to suspend the commercial intercourse between the United States and France and the dependencies thereof," it is provided that at any time after the passing of this act it shall be lawful for the President of the United States, if he shall deem it expedient and consistent with the interests of the United States, by his order to remit and discontinue for the time being the restraints and prohibitions by the said act imposed, either with respect to the French Republic or to any island, port, or place belonging to the said Republic with which a commercial intercourse may safely be renewed, and also to revoke such order whenever, in his opinion, the interest of the United States shall require; and he is authorized to make proclamation thereof accordingly; and

Whereas the arrangements which have been made at St. Domingo for the safety of the commerce of the United States and for the admission of American vessels into certain ports of that island do, in my opinion, render it expedient and for the interest of the United States to renew a commercial intercourse with such ports:

Therefore I, John Adams, President of the United States, by virtue of the powers vested in me by the above-recited act, do hereby remit and discontinue the restraints and prohibitions therein contained within the limits and under the regulations here following, to wit:

1. It shall be lawful for vessels which have departed or may depart from the United States to enter the ports of Cape François and Port Republicain, formerly called Port-au-Prince, in the said island of St. Domingo, on and after the 1st day of August next.

2. No vessel shall be cleared for any other port in St. Domingo than Cape François and Port Republicain.

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<sup>1</sup>Richardson, Messages, vol. I, p. 288.

3. It shall be lawful for vessels which shall enter the said ports of Cape François and Port Republicain after the 31st day of July next to depart from thence to any other port in said island between Monte Christi on the north and Petit Goave on the west; provided it be done with the consent of the Government of St. Domingo and pursuant to certificates or passports expressing such consent, signed by the consul-general of the United States or consul residing at the port of departure.

4. All vessels sailing in contravention of these regulations will be out of the protection of the United States and be, moreover, liable to capture, seizure, and confiscation.

Given under my hand and the seal of the United States, at Philadelphia, the 26th day of June, A. D. 1799, and of the Independence of the said States the twenty-third.

(Seal.)

JOHN ADAMS.

By the President:

TIMOTHY PICKERING,  
*Secretary of State.*

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*Proclamation of May 9, 1800<sup>1</sup>*

PROCLAMATION

MAY 9, 1800.

Whereas by an act of Congress of the United States passed the 27th day of February last, entitled "An act further to suspend the commercial intercourse between the United States and France and the dependencies thereof," it is enacted that at any time after the passing of the said act it shall be lawful for the President of the United States, by his order, to remit and discontinue for the time being, whenever he shall deem it expedient and for the interest of the United States, all or any of the restraints and prohibitions imposed by the said act in respect to the territories of the French Republic, or to any island, port, or place belonging to the said Republic with which, in his opinion, a commercial intercourse may be safely renewed, and to make proclamation thereof accordingly; and it is also thereby further enacted that the whole of the island of Hispaniola shall, for the purposes of the said act, be considered as a dependence of the French Republic; and

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<sup>1</sup>Richardson, Messages, vol. I, p. 302.

Whereas the circumstances of certain ports and places of the said island not comprised in the proclamation of the 26th day of June, 1799, are such that I deem it expedient and for the interest of the United States to remit and discontinue the restraints and prohibitions imposed by the said act in respect to those ports and places in order that a commercial intercourse with the same may be renewed:

Therefore I, John Adams, President of the United States, by virtue of the powers vested in me as aforesaid, do hereby remit and discontinue the restraints and prohibitions imposed by the act aforesaid in respect to all the ports and places in the said island of Hispaniola from Monte Christi on the north, round by the eastern end thereof as far as the port of Jacmel on the south, inclusively. And it shall henceforth be lawful for vessels of the United States to enter and trade at any of the said ports and places, provided it be done with the consent of the Government of St. Domingo. And for this purpose it is hereby required that such vessels first enter the port of Cape François or Port Republicain, in the said island, and there obtain the passports of the said Government, which shall also be signed by the consul-general or consul of the United States residing at Cape François or Port Republicain, permitting such vessel to go thence to the other ports and places of the said island hereinbefore mentioned and described. Of all which the collectors of the customs and all other officers and citizens of the United States are to take due notice and govern themselves.

In testimony, etc.

JOHN ADAMS.

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*Proclamation of September 6, 1800<sup>1</sup>*

BY JOHN ADAMS, PRESIDENT OF THE UNITED STATES  
OF AMERICA

A PROCLAMATION

Whereas by an act of the Congress of the United States passed on the 27th day of February last, entitled "An act further to suspend the commercial intercourse between the United States and France and the dependencies thereof," it is enacted "that at any time after the passing of the said act it shall be lawful for the President of the United

States, by his order, to remit and discontinue for the time being, whenever he shall deem it expedient and for the interest of the United States, all or any of the restraints and prohibitions imposed by the said act in respect to the territories of the French Republic, or to any island, port, or place belonging to said Republic with which, in his opinion, a commercial intercourse may be safely renewed, and to make proclamation thereof accordingly;" and it is also thereby further enacted that the whole of the island of Hispaniola shall, for the purposes of the said act, be considered as a dependence of the French Republic; and

Whereas the circumstances of the said island are such that, in my opinion, a commercial intercourse may safely be renewed with every part thereof, under the limitations and restrictions hereinafter mentioned:

Therefore I, John Adams, President of the United States, by virtue of the powers vested in me as aforesaid, do hereby remit and discontinue the restraints and prohibitions imposed by the act aforesaid in respect to every part of the said island, so that it shall be lawful for vessels of the United States to trade at any of the ports and places thereof, provided it be done with the consent of the Government of St. Domingo; and for this purpose it is hereby required that such vessels first clear for and enter the port of Cape Français or Port Republicain, in the said island, and there obtain the passports of the said Government, which shall also be signed by the consul-general of the United States, or their consul residing at Cape Français, or their consul residing at Port Republicain, permitting such vessels to go thence to the other ports and places of the said island. Of all which the collectors of the customs and all other officers and citizens of the United States are to take due notice and govern themselves accordingly.

Given under my hand and the seal of the United States of America, at the city of Washington, this 6th day of September, A. D. 1800, and of the Independence of the said States the twenty-fifth.

(Seal.)

JOHN ADAMS.

By the President:

J. MARSHALL,

*Secretary of State.*

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<sup>1</sup>Richardson, Messages, vol. I, p. 304.

## APPENDIX

### CONVENTION OF PEACE, COMMERCE AND NAVIGATION BETWEEN THE UNITED STATES AND FRANCE<sup>1</sup>

*Concluded September 30, 1800; ratifications exchanged at Paris, July  
31, 1801; proclaimed December 21, 1801*

The Premier Consul of the French Republic in the name of the people of France, and the President of the United States of America, equally desirous to terminate the differences which have arisen between the two States, have respectfully appointed their Plenipotentiaries, and given them full power to treat upon those differences, and to terminate the same; that is to say, the Premier Consul of the French Republic, in the name of the people of France, has appointed for the Plenipotentiaries of the said Republic the citizens Joseph Bonaparte, ex-Ambassador at Rome and Counsellor of State; Charles Pierre Claret Fleurieu, Member of the National Institute and of the Board of Longitude of France and Counsellor of State, President of the Section of Marine; and Pierre Louis Røederer, Member of the National Institute of France and Counsellor of State, President of the Section of the Interior; and the President of the United States of America, by and with the advice and consent of the Senate of the said States, has appointed for their Plenipotentiaries, Oliver Ellsworth, Chief Justice of the United States; William Richardson Davie, late Governor of the State of North Carolina; and William Vans Murray, Minister Resident of the United States at The Hague; who, after having exchanged their full powers, and after full and mature discussion of the respective interests, have agreed on the following articles:

#### ARTICLE I

There shall be a firm, inviolable, and universal peace, and a true and sincere friendship between the French Republic and the United States of America, and between their respective countries, territories, cities, towns, and people, without exception of persons or places.

#### ARTICLE II

The Ministers Plenipotentiary of the two parties not being able to agree at present respecting the treaty of alliance of 6th February, 1778, the treaty of amity and commerce of the same date, and the

<sup>1</sup>Malloy, Treaties, etc., vol. 1, p. 496.



convention of 14th of November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time, and until they may have agreed upon these points the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows:

### ARTICLE III

The public ships which have been taken on one part and the other, or which may be taken before the exchange of ratifications, shall be restored.

### ARTICLE IV

Property captured, and not yet definitively condemned, or which may be captured before the exchange of ratifications (contraband goods destined to an enemy's port excepted), shall be mutually restored on the following proofs of ownership, viz: The proof on both sides with respect to merchant ships, whether armed or unarmed, shall be a passport in the form following:

*"To all who shall see these presents, greeting:*

"It is hereby made known that leave and permission has been given to ———, master and commander of the ship called ———, of the town of ———, burthen ——— tons, or thereabouts, lying at present in the port and haven of ———, and bound for ———, and laden with ———; after that his ship has been visited, and before sailing, he shall make oath before the officers who have the jurisdiction of maritime affairs, that the said ship belongs to one or more of the subjects of ———, the act whereof shall be put at the end of these presents, as likewise that he will keep, and cause to be kept, by his crew on board, the marine ordinances and regulations, and enter in the proper office a list, signed and witnessed, containing the names and surnames, the places of birth and abode of the crew of his ship, and of all who shall embark on board her, whom he shall not take on board without the knowledge and permission of the officers of the marine; and in every port or haven where he shall enter with his ship, he shall shew this present leave to the officers and judges of the marine, and shall give a faithful account to them of what passed and was done during his voyage; and he shall carry the colours, arms, and ensigns of the [French Republic or the United States] during his voyage. In witness whereof we have signed these presents, and put the seal of our arms thereunto, and caused the same to be countersigned by ——— at ——— the ——— day of ——— anno Domini."

And this passport will be sufficient without any other paper, any ordinance to the contrary notwithstanding; which passport shall not be deemed requisite to have been renewed or recalled, whatever num-

ber of voyages the said ship may have made, unless she shall have returned home within the space of a year. Proof with respect to the cargo shall be certificates, containing the several particulars of the cargo, the place whence the ship sailed and whither she is bound, so that the forbidden and contraband goods may be distinguished by the certificates; which certificates shall have been made out by the officers of the place whence the ship set sail, in the accustomed form of the country. And if such passport or certificates, or both, shall have been destroyed by accident or taken away by force, their deficiency may be supplied by such other proofs of ownership as are admissible by the general usage of nations. Proof with respect to other than merchant ships shall be the commission they bear.

This article shall take effect from the date of the signature of the present convention. And if, from the date of the said signature, any property shall be condemned contrary to the intent of the said convention, before the knowledge of this stipulation shall be obtained, the property so condemned shall, without delay, be restored or paid for.

#### ARTICLE V

The debts contracted by one of the two nations with individuals of the other, or by the individuals of one with the individuals of the other, shall be paid, or the payment may be prosecuted, in the same manner as if there had been no misunderstanding between the two States. But this clause shall not extend to indemnities claimed on account of captures or confiscations.

#### ARTICLE VI

Commerce between the parties shall be free. The vessels of the two nations and their privateers, as well as their prizes, shall be treated in their respective ports as those of the nation the most favoured; and, in general, the two parties shall enjoy in the ports of each other, in regard to commerce and navigation, the privileges of the most favoured nation.

#### ARTICLE VII

The citizens and inhabitants of the United States shall be at liberty to dispose by testament, donation, or otherwise, of their goods, moveable and immoveable, holden in the territory of the French Republic in Europe, and the citizens of the French Republic shall have the same liberty with regard to goods, moveable and immoveable, holden in the territory of the United States, in favor of such persons as they shall think proper. The citizens and inhabitants of either of the two countries who shall be heirs of goods, moveable or immoveable, in the other, shall be able to succeed *ab intestato*, without being obliged to obtain letters of naturalization, and without having the effect of

this provision contested or impeded, under any pretext whatever; and the said heirs, whether such by particular title, or ab intestato, shall be exempt from any duty whatever in both countries. It is agreed that this article shall in no manner derogate from the laws which either State may now have in force, or hereafter may enact, to prevent emigration; and also that in case the laws of either of the two States should restrain strangers from the exercise of the rights of property with respect to real estate, such real estate may be sold, or otherwise disposed of, to citizens or inhabitants of the country where it may be, and the other nation shall be at liberty to enact similar laws.

#### ARTICLE VIII

To favor commerce on both sides it is agreed that, in case a war should break out between the two nations, which God forbid, the term of six months after the declaration of war shall be allowed to the merchants and other citizens and inhabitants respectively, on one side and the other, during which time they shall be at liberty to withdraw themselves, with their effects and moveables, which they shall be at liberty to carry, send away, or sell, as they please, without the least obstruction; nor shall their effects, much less their persons, be seized during such term of six months; on the contrary, passports, which shall be valid for a time necessary for their return, shall be given to them for their vessels and the effects which they shall be willing to send away or carry with them; and such passports shall be a safe conduct against all insults and prizes which privateers may attempt against their persons and effects. And if anything be taken from them, or any injury done to them or their effects, by one of the parties, their citizens or inhabitants, within the term above prescribed, full satisfaction shall be made to them on that account.

#### ARTICLE IX

Neither the debts due from individuals of the one nation to individuals of the other, nor shares, nor monies, which they may have in public funds, or in the public or private banks, shall ever, in any event of war or of national difference, be sequestered or confiscated.

#### ARTICLE X

It shall be free for the two contracting parties to appoint commercial agents for the protection of trade, to reside in France and the United States. Either party may except such place as may be thought proper from the residence of those agents. Before any agent shall exercise his functions, he shall be accepted in the usual forms by the party to whom he is sent; and when he shall have been accepted and furnished with his exequatur, he shall enjoy the rights and prerogatives of the similar agents of the most favoured nations.

## ARTICLE XI

The citizens of the French Republic shall pay in the ports, havens, roads, countries, islands, cities, and towns of the United States, no other or greater duties or imposts, of what nature soever they may be, or by what name soever called, than those which the nation most favoured are or shall be obliged to pay; and they shall enjoy all the rights, liberties, privileges, immunities, and exemptions in trade, navigation, and commerce, whether in passing from one port in the said State to another, or in going to and from the same from and to any part of the world, which the said nations do or shall enjoy. And the citizens of the United States shall reciprocally enjoy, in the territories of the French Republic in Europe, the same privileges and immunities, as well for their property and persons as for what concerns trade, navigation, and commerce.

## ARTICLE XII

It shall be lawful for the citizens of either country to sail with their ships and merchandise (contraband goods always excepted) from any port whatever to any port of the enemy of the other, and to sail and trade with their ships and merchandise, with perfect security and liberty, from the countries, ports, and places of those who are enemies of both, or of either party, without any opposition or disturbance whatsoever, and to pass not only directly from the places and ports of the enemy aforementioned to neutral ports and places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of the same Power or under the several, unless such ports or places shall be actually blockaded, besieged, or invested.

And whereas it frequently happens that vessels sail for a port or place belonging to an enemy without knowing that the same is either besieged, blockaded, or invested, it is agreed that every vessel so circumstanced may be turned away from such port or place, but she shall not be detained, nor any part of her cargo, if not contraband, be confiscated, unless, after notice of such blockade or investment, she shall again attempt to enter; but she shall be permitted to go to any other port or place she shall think proper. Nor shall any vessel of either that may have entered into such port or place before the same was actually besieged, blockaded, or invested by the other, be restrained from quitting such place with her cargo, nor if found therein after the reduction and surrender of such place shall such vessel or her cargo be liable to confiscation, but they shall be restored to the owners thereof.

## ARTICLE XIII

In order to regulate what shall be deemed contraband of war, there shall be comprised, under that denomination, gun-powder, saltpetre,

petards, match, ball, bombs, grenades, carcasses, pikes, halberts, swords, belts, pistols, holsters, cavalry-saddles and furniture, cannon, mortars, their carriages and beds, and generally all kinds of arms, ammunition of war, and instruments fit for the use of troops; all the above articles, whenever they are destined to the port of an enemy, are hereby declared to be contraband, and just objects of confiscation; but the vessel in which they are laden, and the residue of the cargo, shall be considered free, and not in any manner infected by the prohibited goods, whether belonging to the same or a different owner.

#### ARTICLE XIV

It is hereby stipulated that free ships shall give a freedom to goods, and that everything shall be deemed to be free and exempt which shall be found on board the ships belonging to the citizens of either of the contracting parties, although the whole lading, or any part thereof, should appertain to the enemies of either, contraband goods being always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board a free ship, with this effect, that although they be enemies to either party, they are not to be taken out of that free ship, unless they are soldiers and in actual service of the enemy.

#### ARTICLE XV

On the contrary, it is agreed that whatever shall be found to be laden by the citizens of either party on any ship belonging to the enemies of the other, or their citizens, shall be confiscated without distinction of goods, contraband or not contraband, in the same manner as if it belonged to the enemy, except such goods and merchandizes as were put on board such ship before the declaration of war, or even after such declaration, if so be it were done without knowledge of such declaration; so that the goods of the citizens of either party, whether they be of the nature of such as are prohibited, or otherwise, which, as is aforesaid, were put on board any ship belonging to an enemy before the war, or after the declaration of the same, without the knowledge of it, shall no ways be liable to confiscation, but shall well and truly be restored without delay to the proprietors demanding the same; but so as that if the said merchandizes be contraband, it shall not be any ways lawful to carry them afterwards to any ports belonging to the enemy. The two contracting parties agree that the term of two months being passed after the declaration of war, their respective citizens, from whatever part of the world they come, shall not plead the ignorance mentioned in this article.

## ARTICLE XVI

The merchant ships belonging to the citizens of either of the contracting parties, which shall be bound to a port of the enemy of one of the parties, and concerning whose voyage and the articles of their cargo there shall be just grounds of suspicion, shall be obliged to exhibit, as well upon the high seas as in the ports or roads, not only their passports, but likewise their certificates, showing that their goods are not of the quality of those which are specified to be contraband in the thirteenth article of the present convention.

## ARTICLE XVII

And that captures on light suspicions may be avoided, and injuries thence arising prevented, it is agreed that when one party shall be engaged in war, and the other party be neuter, the ships of the neutral party shall be furnished with passports similar to that described in the fourth article, that it may appear thereby that the ships really belong to the citizens of the neutral party; they shall be valid for any number of voyages, but shall be renewed every year; that is, if the ship happens to return home in the space of a year. If the ships are laden, they shall be provided not only with the passports above mentioned, but also with certificates similar to those described in the same article, so that it may be known whether they carry any contraband goods. No other paper shall be required, any usage or ordinance to the contrary notwithstanding. And if it shall not appear from the said certificates that there are contraband goods on board, the ships shall be permitted to proceed on their voyage. If it shall appear from the certificates that there are contraband goods on board any such ship, and the commander of the same shall offer to deliver them up, the offer shall be accepted, and the ship shall be at liberty to pursue its voyage, unless the quantity of contraband goods be greater than can conveniently be received on board the ship of war or privateer, in which case the ship may be carried into port for the delivery of the same.

If any ship shall not be furnished with such passport or certificates as are above required for the same, such case may be examined by a proper judge or tribunal, and if it shall appear from other documents or proofs admissible by the usage of nations, that the ship belongs to the citizens of the neutral party, it shall not be confiscated, but shall be released with her cargo (contraband goods excepted) and be permitted to proceed on her voyage.

If the master of a ship named in the passport should happen to die, or be removed by any other cause, and another put in his place, the ship and cargo shall nevertheless be equally secure, and the passport remain in full force.

## ARTICLE XVIII

If the ships of the citizens of either of the parties shall be met with, either sailing along the coasts or on the high seas, by any ship of war or privateer of the other, for the avoiding of any disorder the said ships of war or privateers shall remain out of cannon-shot, and may send their boats on board the merchant ship which they shall so meet with, and may enter her to the number of two or three men only, to whom the master or commander of such ship shall exhibit his passport concerning the property of the ship, made out according to the form prescribed in the fourth article. And it is expressly agreed that the neutral party shall in no case be required to go on board the examining vessel for the purpose of exhibiting his papers, or for any other examination whatever.

## ARTICLE XIX

It is expressly agreed by the contracting parties that the stipulations above mentioned, relative to the conduct to be observed on the sea by the cruisers of the belligerent party towards the ships of the neutral party, shall be applied only to ships sailing without convoy; and when the said ships shall be convoyed, it being the intention of the parties to observe all the regard due to the protection of the flag displayed by public ships, it shall not be lawful to visit them; but the verbal declaration of the commander of the convoy, that the ships he convoys belong to the nation whose flag he carries, and that they have no contraband goods on board, shall be considered by the respective cruisers as fully sufficient, the two parties reciprocally engaging not to admit, under the protection of their convoys. ships which shall carry contraband goods destined to an enemy.

## ARTICLE XX

In all cases where vessels shall be captured or detained, under pretence of carrying to the enemy contraband goods, the captor shall give a receipt for such of the papers of the vessel as he shall retain, which receipt shall be annexed to a descriptive list of the said papers; and it shall be unlawful to break up or open the hatches, chests, trunks, casks, bales, or vessels found on board, or remove the smallest part of the goods, unless the lading be brought on shore in presence of the competent officers, and an inventory be made by them of the said goods; nor shall it be lawful to sell, exchange, or alienate the same in any manner, unless there shall have been lawful process, and the competent judge or judges shall have pronounced against such goods sentence of confiscation, saving always the ship and the other goods which it contains.

## ARTICLE XXI

And that proper care may be taken of the vessel and cargo, and embezzlement prevented, it is agreed that it shall not be lawful to remove the master, commander, or supercargo of any captured ship from on board thereof, either during the time the ship may be at sea after her capture, or pending the proceedings against her or her cargo, or anything relative thereto. And in all cases where a vessel of the citizens of either party shall be captured or seized, and held for adjudication, her officers, passengers, and crew shall be hospitably treated. They shall not be imprisoned or deprived of any part of their wearing apparel, nor of the possession and use of their money, not exceeding for the captain, supercargo, and mate five hundred dollars each, and for the sailors and passengers one hundred dollars each.

## ARTICLE XXII

It is further agreed that in all cases the established courts for prize causes, in the country to which the prizes may be conducted, shall alone take cognizance of them. And whenever such tribunal of either of the parties shall pronounce judgment against any vessel or goods, or property claimed by the citizens of the other party, the sentence or decree shall mention the reasons or motives on which the same shall have been founded, and an authenticated copy of the sentence or decree, and of all the proceedings in the case, shall, if demanded, be delivered to the commander or agent of the said vessel, without any delay, he paying the legal fees for the same.

## ARTICLE XXIII

And that more abundant care may be taken for the security of the respective citizens of the contracting parties, and to prevent their suffering injuries by the men-of-war or privateers of either party, all commanders of ships of war and privateers, and all others the said citizens, shall forbear doing any damage to those of the other party, or committing any outrage against them, and if they act to the contrary they shall be punished, and shall also be bound in their persons and estates to make satisfaction and reparation for all damages and the interest thereof, of whatever nature the said damages may be.

For this cause all commanders of privateers, before they receive their commissions, shall hereafter be obliged to give, before a competent judge, sufficient security by at least two responsible sureties who have no interest in the said privateer, each of whom, together with the said commander, shall be jointly and severally bound in the sum of seven thousand dollars or thirty-six thousand eight hundred and twenty francs, or if such ships be provided with above one hundred and fifty seamen or soldiers, in the sum of fourteen thousand



dollars, or seventy-three thousand six hundred and forty francs, to satisfy all damages and injuries which the said privateer, or her officers, or men, or any of them, may do or commit during their cruise, contrary to the tenor of this convention, or to the laws and instructions for regulating their conduct; and further, that in all cases of aggression the said commission shall be revoked and annulled.

#### ARTICLE XXIV

When the ships of war of the two contracting parties, or those belonging to their citizens which are armed in war, shall be admitted to enter with their prizes the ports of either of the two parties, the said public or private ships, as well as their prizes, shall not be obliged to pay any duty either to the officers of the place, the judges, or any others; nor shall such prizes, when they come to and enter the ports of either party, be arrested or seized, nor shall the officers of the place make examination concerning the lawfulness of such prizes; but they may hoist sail at any time and depart, and carry their prizes to the places expressed in their commissions, which the commanders of such ships of war shall be obliged to shew. It is always understood that the stipulations of this article shall not extend beyond the privileges of the most favored nation.

#### ARTICLE XXV

It shall not be lawful for any foreign privateers who have commissions from any Prince or State in enmity with either nation, to fit their ships in the ports of either nation, to sell their prizes, or in any manner to exchange them; neither shall they be allowed to purchase provisions, except such as shall be necessary for their going to the next port of that Prince or State from which they have received their commissions.

#### ARTICLE XXVI

It is further agreed that both the said contracting parties shall not only refuse to receive any pirates into any of their ports, havens, or towns, or permit any of their inhabitants to receive, protect, harbor, conceal, or assist them in any manner, but will bring to condign punishment all such inhabitants as shall be guilty of such acts or offenses.

And all their ships, with the goods or merchandises, taken by them and brought into the port of either of the said parties, shall be seized as far as they can be discovered, and shall be restored to the owners, or their factors or agents duly authorized by them (proper evidence being first given before competent judges for proving the property;) even in case such effects should have passed into other hands by sale, if it be proved that the buyers knew or had good reason to believe or suspect that they had been piratically taken.

## ARTICLE XXVII

Neither party will intermeddle in the fisheries of the other on its coasts, nor disturb the other in the exercise of the rights which it now holds or may acquire on the coast of Newfoundland, in the Gulph of St. Lawrence, or elsewhere on the American coast northward of the United States. But the whale and seal fisheries shall be free to both in every quarter of the world.

This convention shall be ratified on both sides in due form, and the ratifications exchanged in the space of six months, or sooner, if possible.

In faith whereof the respective Plenipotentiaries have signed the above articles both in the French and English languages, and they have thereto affixed their seals: declaring, nevertheless, that the signing in the two languages shall not be brought into precedent, nor in any way operate to the prejudice of either party.

Done at Paris the eighth day of Vendémiaire of the ninth year of the French Republic, the thirtieth day of September, anno Domini eighteen hundred.

[SEAL.]

[SEAL.]

[SEAL.]

[SEAL.]

[SEAL.]

[SEAL.]

J. BONAPARTE.

C. P. FLEURIEU.

ROEDERER.

O. ELLSWORTH.

W. R. DAVIE.

W. V. MURRAY.

NOTE:—The Senate of the United States did, by their resolution of the 3d day of February, 1801, consent to and advise the ratification of the convention: *Provided*, The second article be expunged, and that the following article be added or inserted: "It is agreed that the present convention shall be in force for the term of eight years from the time of the exchange of the ratifications."

Bonaparte, First Consul, in the name of the French people, consented on the 31st July, 1801, "to accept, ratify, and confirm the above convention, with the addition importing that the convention shall be in force for the space of eight years, and with the retrenchment of the second article: *Provided*, That by this retrenchment the two States renounce the respective pretensions, which are the object of the said article."

These ratifications having been exchanged at Paris on the 31st of July, 1801, were again submitted to the Senate of the United States, which on the 19th of December, 1801, declared the convention fully ratified, and returned it to the President for promulgation. (Malloy, p. 505.)











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